

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

CARL WILLIAMS, CIVIL ACTION NUMBER:  
Plaintiff, 2:22-CV-01618-JDW  
v. JURY TRIAL  
DAY 7  
LINODE LIMITED LIABILITY  
COMPANY, d/b/a LINODE, LLC,  
LINODIAN, LLC, d/b/a LINODE,  
LLC, DANIEL SPATARO, and  
THOMAS ASARO  
Defendants.

U.S. District Court, Eastern District of PA  
James A. Byrne U.S. Courthouse  
601 Market Street  
Philadelphia, Pennsylvania 19106  
January 31, 2024  
Commencing at 9:03 a.m.

B E F O R E: THE HONORABLE JOSHUA D. WOLSON  
UNITED STATES DISTRICT JUDGE

## APPPEARANCES:

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For the Plaintiff

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24 Proceedings recorded by mechanical stenography; transcript  
produced by computer-aided transcription.

1    **A P P E A R A N C E S: (Cont'd)**

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3                   JACKSON LEWIS, P.C.  
4                   BY: STEPHANIE JILL PEET, ESQUIRE  
5                   JONATHAN CAVALIER, ESQUIRE  
6                   TIMOTHY MCCARTHY, ESQUIRE  
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9                   For the Defendant

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10                   **ALSO PRESENT:**

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13                   MELISSA MEYER, PARALEGAL

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15                   SHARON SCOTT, COURTROOM DEPUTY

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1 (PROCEEDINGS held in open court before The Honorable  
2 JOSHUA D. WOLSON, United States District Judge, at 9:03 a.m.)

3 THE COURTROOM DEPUTY: All rise.

4 THE COURT: Good morning, everybody. Have a seat,  
5 please. I didn't see any email traffic, so I presume we're  
6 ready to close?

7 MR. CAVALIER: Yep.

8 THE COURT: Very good. So we'll keep time for each of  
9 you. From a preference standpoint, do you want us to give you  
10 a five-minute warning? A two-minute warning? Do you want to  
11 just go uninterrupted and just tell you when you're done if  
12 you're over time? How do you want to do it?

13 Mr. Carson?

14 MR. CARSON: I guess a five-minute warning.

15 THE COURT: Five-minute warning?

16 MR. CARSON: Yeah.

17 THE COURT: Okay. Mr. Cavalier, what's your  
18 preference?

19 MR. CAVALIER: Just on the off-chance I need it, can I  
20 get a one-minute warning?

21 THE COURT: Okay. All right.

22 Let's go ahead and bring the jury in, Ms. Scott.

23 THE COURTROOM DEPUTY: All rise for the jury.

24 (Jury enters the courtroom at 9:04 a.m.)

25 THE COURT: Good morning, everybody. You can all have

1 a seat. So what we're going to do this morning, as I said to  
2 you when we finished up yesterday, is we're going to hear the  
3 closing arguments from the parties. The plaintiff will go  
4 first, the defendant will go second, and the plaintiff gets a  
5 brief chance to rebut.

6 And then I have one sort of final instruction for all  
7 of you on how you dispatch your duties and deliberations, and  
8 then the case will be yours. My expectations will be to get  
9 all that in before the mid-morning break. Okay? So by  
10 10:45-ish you should have the case and be ready to deliberate.  
11 Okay?

12 So with that, I'm going to call upon Mr. Carson to  
13 deliver the plaintiff's closing. Mr. Carson?

14 MR. CARSON: Thank you, Your Honor.

15 So I know it's been a long journey, but this is the  
16 end, and so my job now is to explain to you why the plaintiff  
17 has satisfied his burden of proof legally. And I would submit  
18 to you that the plaintiff has, indeed, done so unequivocally,  
19 and I'm going to tell you why I say that. And I think you're  
20 going to agree with me when I'm finished.

21 So this case, I told you at the beginning, was about  
22 credibility. Right? I said sometimes they make it easy,  
23 sometimes they make it hard. And I think we've seen an example  
24 in this case where they made it pretty easy. Because in this  
25 case, you've heard the defendants confirm without a shadow of a

1 doubt that they've lied repeatedly about the single most  
2 important issue in this case.

3                   And I would submit to you that we all have heard  
4 stories growing up about why you don't do that, why you don't  
5 lie, why it's just never a good idea. It's just not a good  
6 idea. And that's because -- right? -- you can't tell one lie  
7 without having to tell another. And you can't tell a second  
8 without having to tell a third. And that goes on and on and on  
9 and on. It started in October -- sorry, it started in August  
10 of 2020 -- you know, it actually started before the  
11 termination. We heard that it was a week before the  
12 termination at the least that these lies started about this  
13 investigation -- not into issues related to John Musbach. That  
14 never happened. That was confirmed. We all heard it. Every  
15 single person who got on that stand from the defendants  
16 confirmed that.

17                   The investigation was into policy violations. And so  
18 this investigation into policy violations, it begins and it  
19 continues and it goes on and on and on. And there's document  
20 after document and there's proof after proof that what happened  
21 was an investigation and a termination based on pretextual  
22 policy violations.

23                   And you know, people do lie. That happens, right?  
24 But guess what never lies? Documents. Documents tell the  
25 truth every single time. They can't lie, right? They say what

1 they say.

2 And you know, the defendants have -- came up with  
3 this, you know, with this tale, this story. And this tale and  
4 this story is intended to do one thing, shock and awe. It's  
5 intended to work on your fears. I mean, they are trying to  
6 trick you guys. That's what they are doing. And they think  
7 that this trick is so bad -- pedophilia, murder, kids.  
8 Obvious.

9 But what they don't want you to do and what they are  
10 not going to ever tell you in this case, you will not hear it a  
11 single time, Mr. Cavalier is not going to say it in his  
12 closing, is that it doesn't matter one little bit if the reason  
13 for terminating somebody is reasonable if it's based on not  
14 wanting to be associated with some crazy crimes. That's not  
15 the question in this case. It doesn't matter if that's  
16 reasonable and that's not the analysis that Judge Wolson asked  
17 you to perform and that's not what the law states. The law  
18 says, is it really the reason? So we all can figure out, yeah,  
19 if -- if all companies had to do is sometime two and a half  
20 years after the termination is think of a reason that might be  
21 reasonable, then the law would mean nothing. Because that's  
22 the easiest thing in the world to do, you just make something  
23 up. Right?

24 But that's not what defendants have to prove. What  
25 they have to prove is that the legitimate reason at the time

1 was this thing that they're saying happened, and there's not a  
2 single shred of evidence to demonstrate that.

3                   The defendants sat up there and they all were playing  
4 on your fears and they were trying to trick you and they were  
5 trying to -- legal tactics, smoke and mirrors, every single  
6 time. And I'm going to show you specific examples, and I think  
7 you're going to agree that every single one of them is just a  
8 trick. It's not designed to enlighten you, it's not designed  
9 to disclose information to you, it's not designed -- like, you  
10 know, the last thing the defendants want to do is put all the  
11 evidence on the table and let's just like leaf through it. We  
12 would love that to happen.

13                  But that's not what the defendants want. What they  
14 want is for you to see little, tiny snippets of little pictures  
15 from here and there and they want you to come to false and  
16 incorrect conclusions about all of them.

17                  Now, just so I can show you outright, right now,  
18 before I move on. You know, you saw Owen Conway on the stand  
19 yesterday. You know, he's on the video, but the defendants  
20 didn't ask him how old he was when he was working at Linode.  
21 They asked him how old he was now. It's nothing to do with the  
22 case. It's nine years after he left. Why does that matter?  
23 Who cares that he's 51 now. He was 42 when he was working  
24 there. And he testified when he was there, he was one of the  
25 oldest guys.

1                   So Owen Conway got up there and he confirmed  
2 everything my client said is correct about the age of the  
3 people there, and the demographic of the people there, and that  
4 he is the oldest guy there, that they've hired anyone older  
5 after that. They considered Owen Conway the old guy. That's  
6 what he said.

7                   So the other thing, too, is I would submit to you --  
8 and I don't think I'm going to get any argument from the other  
9 side -- Owen Conway was asked how old he was when he  
10 interviewed, and he said 46. Now, I can show you clearly in  
11 this case through the corporate designee testimony that was  
12 read in. And in case you don't understand what a corporate  
13 designee testimony is, that is the statement of the company.  
14 When Mr. Palochko testifies as a corporate designee, he's not  
15 Vincent Palochko anymore; he is Linode. And that's why I can  
16 just read it to you.

17                  Right? So, you know, all those things you saw in this  
18 case about laying a foundation, I don't have to do that with  
19 Vincent Palochko's corporate designee testimony. I can just  
20 put my associate, my colleague Catherine on the stand and we  
21 can just do a mock reading because that is the company  
22 speaking. And the company confirmed that Owen Conway worked  
23 there between 2016 and 2017. Right? 2016. So he  
24 interviewed -- and by the way, he started in February. So he  
25 interviewed in the very beginning of 2016.

1                   So 2024 minus 2016, what's that? 8? 51 minus 8, it's  
2 not 46. If what he said is correct, it means that when he left  
3 the company it was -- when he interviewed for the company, it  
4 means he was 40 -- it was 2019 when he interviewed. So I don't  
5 know why -- I'm going to give him the benefit of the doubt, but  
6 just another little fact that was misleading that you heard  
7 from the defense side.

8                   The plaintiff's side didn't provide a single  
9 misleading fact. And I'll submit to you almost the entire case  
10 that we presented was confirmed through either evidence or  
11 through the testimony of the people who worked at Linode, and  
12 I'll show you that, too.

13                  Sorry. I'm putting my stopwatch on.

14                  So now my client testifies in this case that he  
15 started there in 2014. And, you know, if you remember,  
16 Mr. Cavalier's opening statement is that it ended with this  
17 idea that opening statements are a promise, and that the side  
18 who proves throughout the case that what was said in the  
19 opening statement is true, that that side deserves the right to  
20 come up and ask for the jury's vote.

21                  Ladies and Gentlemen, I did that in this case. Every  
22 single thing I read to you -- and I apologize for reading,  
23 that's not why I'm reading now. Every single thing I read to  
24 you in that opening statement was proven in this case. Every  
25 single thing. And I'll walk you through it as quickly as I

1 can.

2 So my client started in 2014 at Linode after having a  
3 vast amount of industry experience. That was proven. You  
4 heard Defendants Dan Spataro, Tom Asaro, Vince Palochko talk  
5 about his industry experience, that's why they valued him. You  
6 heard him say that he was an instrumental part of growing the  
7 business. That was also something I promised you would hear  
8 throughout the case, that my client was instrumental, which  
9 means he was a vital part of growing the global infrastructure  
10 that Linode used and capitalized from in 2022 when it was sold  
11 to Akamai. Right?

12 And so my client begins in the Galloway office in 2015  
13 and he talks about these things that happened at the Galloway  
14 office. We confirmed through testimony, everyone here, that my  
15 client did start at the Galloway office, that he did move into  
16 a big room at the Galloway office, that Lisa Brown did  
17 sometimes walk around that room in the Galloway office. The  
18 defendants didn't deny that that happened. Right? They didn't  
19 put anyone on the stand to say, no, that never happened, we  
20 never saw that. You know, they have people who said they don't  
21 remember or they weren't there when it happened, but there  
22 isn't anyone who refuted that happened. Right?

23 And so my client's age is talked about. And we saw --  
24 we heard the names of the people that he worked with, and we  
25 confirmed that those were the people he worked with, we

1 confirmed that they were the people he worked with at those  
2 times. Alex Forrester was the first person, and then Andrew  
3 Dampf was hired on September 29th of 2014, less than two months  
4 before my client. My client is the third guy added to the  
5 team, I said that. And he helped the business grow from there,  
6 I said that. Right?

7 At the time that he started, Linode was a small  
8 company in Galloway. And Tom Asaro said, what, 35 people I  
9 think he said, 35 employees to hundreds of employees when he  
10 left. Tom Asaro said the fastest growth was before he got  
11 there. That doesn't make a lot of sense, does it? But that's  
12 what he said. You know, before he got there, they were  
13 basically in London and -- data centers in London and in the  
14 United States, a few places in the United States. When he  
15 left, there were data centers in Mumbai, there was data centers  
16 in Toronto, there was data centers in Singapore and Australia,  
17 just to name a few. And they confirmed that my client was  
18 instrumental in building that global network. That's what --  
19 that was his job, that's what he did. He was making  
20 introductions to people. We saw that, too, during this case.  
21 Right? We saw the text thread between Carl and Chris Aker. We  
22 couldn't show you the Slack thread between them. We don't have  
23 any control of that. You heard Tom Asaro talk about that on  
24 the stand. He said that he could go get those messages if he  
25 wanted at any time. Right? There's messages between Carl and

1 Tom Asaro that we're not going to see in this case. There's  
2 messages between Carl --

3 MR. CAVALIER: Objection.

4 THE COURT: Yeah, the objection is sustained.

5 MR. CARSON: Why is it sustained, Your Honor?

6 THE COURT: Mr. Carson, no.

7 MR. CARSON: I mean, if defendants are going to argue,  
8 can I ask for a sidebar? We can take a pause?

9 THE COURT: Yeah, but it's going to come off your  
10 time.

11 MR. CARSON: It will be quick.

12 (Sidebar as follows:)

13 MR. CARSON: Your Honor, you said this is fair game.  
14 I'm not talking about anything to do with discovery, I'm  
15 talking about what the witnesses said on the stand. That's it.  
16 I'm just saying what they said.

17 If you want, I can read it directly from what they  
18 said if that makes it easier.

19 THE COURT: You're talking about what was produced.  
20 Right? You're talking about --

21 MR. CARSON: I didn't say anything -- I just said what  
22 we have in this case and what was testified exists in this case  
23 and what we have and what we don't have. I'm not talking about  
24 discovery issues in any way, shape, or form. I won't.

25 THE COURT: What did you --

1                   MR. CAVALIER: I heard, we couldn't show you all these  
2 wonderful documents we have that aren't in evidence because  
3 they didn't produce them.

4                   MR. CARSON: I didn't say that. That's not what I  
5 said.

6                   THE COURT: That's what I heard too.

7                   MR. CARSON: All right. So can we agree that I am  
8 allowed to talk about the things that Tom Asaro said in this  
9 case, even if they have to do with documents? I mean, it's  
10 fair game. They already heard it.

11                  THE COURT: You can talk about what Tom Asaro said. I  
12 don't know that Tom Asaro ever said that there are documents.  
13 I think he said if there were documents, he could get them.

14                  MR. CARSON: Yeah, he said there were Slack messages  
15 between him and between Carl, and that if he wanted to, he  
16 could go look at them right now. That's what he testified to.  
17 I'll just read --

18                  THE COURT: Right, but there's evidence that that  
19 hasn't been produced in the case. So to suggest --

20                  MR. CARSON: Well, the jury will know what they have  
21 and what they don't have.

22                  THE COURT: The jury will know what's been introduced  
23 into evidence. That doesn't mean it wasn't produced. And I  
24 think you are suggesting to them --

25                  MR. CARSON: No, that's --

1                   THE COURT: You a hundred percent are, Mr. Carson.

2 You're suggesting that you don't have them.

3                   MR. CARSON: All right. Well, then I won't say I  
4 don't have them.

5                   THE COURT: Well, you just did. That's why I  
6 sustained the objection.

7                   MR. CARSON: Well, then what I will say is that you  
8 heard that these documents are out there and you can judge for  
9 yourself.

10                  THE COURT: No, because that's -- you're asking the  
11 jury to draw a negative inference and --

12                  MR. CARSON: They are allowed to do that, Your Honor.

13                  THE COURT: Not about what's been produced and what  
14 hasn't.

15                  MR. CARSON: This is what he's going to say in his  
16 closing, and a hundred percent we're going to hear it. Ladies  
17 and Gentlemen of the Jury, all those documents that you would  
18 expect to see in this case we don't have.

19                  So he's going to -- he said the same thing in his  
20 opening.

21                  THE COURT: He's going to say that what you seen in  
22 the documents doesn't support it. Right? We're not going to  
23 get into the things that you speculate might have been there.  
24 You're asking the jury to draw an adverse inference based on  
25 the idea that the documents were not available. That's what

1 you're asking them to do.

2 MR. CARSON: But they are allowed to do that. In the  
3 Third Circuit, that is fair game.

4 THE COURT: No. Mr. Carson, we talked about this the  
5 other day.

6 MR. CARSON: It's not a discovery issue, Your Honor.

7 THE COURT: No, I know. We talked about this the  
8 other day. The issue the other day was that you showed me a  
9 case that dealt with spoliation instructions. Okay? That's  
10 the cases that you've pointed me to. This is not a spoliation  
11 issue and --

12 MR. CARSON: Your Honor --

13 THE COURT: Mr. Carson, I'm not done. I'm not going  
14 to have you get up in front of the jury and say to them that  
15 there are documents and that they haven't seen them and that  
16 they should draw an inference based on the fact that they  
17 haven't seen them.

18 MR. CARSON: No, I don't want to -- they can draw  
19 whatever inference they want.

20 THE COURT: No, but there is no inference to be drawn  
21 because we are not going to argue about what was and wasn't  
22 produced. And ultimately, the core of what you are saying is  
23 that something wasn't produced.

24 MR. CARSON: But they've heard -- fine, I won't say  
25 that, I won't say that. But I think I can definitely refer to

1 their testimony where they talked about the things that are out  
2 there.

3 THE COURT: You can talk about what Mr. Asaro said.

4 But again, I don't think that Mr. Asaro said that there are  
5 things that out there that haven't been produced. And I don't  
6 think you can suggest that Mr. Asaro said that there are  
7 documents that are out there that weren't produced.

8 Mr. Asaro said that if there are Slack threads between  
9 him and Carl, they exist. That he could still -- he could go  
10 look at them. That's all he said. That's how Slack works,  
11 that's what he testified to.

12 MR. CARSON: But if John Cavalier gets up and says  
13 anything about well, all the documents you would expect to see  
14 aren't here, then he is not allowed to say that then if I can't  
15 say this. Because that's not fair. It's not fair for him to  
16 open the door and me not be able to address it.

17 THE COURT: Okay. I haven't heard what he's going to  
18 say. Is it possible that he's going to say something that  
19 opens the door? It is, okay? But as it stands now, I'm not  
20 going to have you get up and make suggestions about the idea  
21 that there are things that are out there that weren't produced  
22 that would otherwise be in this case.

23 MR. CARSON: All right. I'll limit it to what was  
24 said in the testimony. I would request that this not come off  
25 my time.

1                   THE COURT: No, this is an objection that I'm  
2 sustaining, Mr. Carson.

3                   MR. CARSON: But still, that was something that you  
4 did for the trial. This is a closing statement. I think I  
5 should get 45 minutes to do my closing.

6                   THE COURT: Mr. Carson, I told you what was going to  
7 happen if you asked for a sidebar, okay. So I'm -- that's what  
8 I'm doing. Okay? The clock is running.

9                   MR. CARSON: Yep. Thanks, Your Honor. I appreciate  
10 it.

11                   (Sidebar concluded.)

12                   MR. CARSON: So what you heard from Mr. Asaro is me  
13 ask about certain documents, and this is what he said:

14                   "QUESTION: And you guys communicated for six years of  
15 employment through Slack thread, right?

16                   "ANSWER: I don't know if we used Slack for all  
17 six years. I don't think we used it when we first started.

18                   "QUESTION: Yeah, that's a good point, so let's just  
19 say from the time you started using Slack, that's when you and  
20 Carl maintained those Slack conversations, correct?

21                   "Yes.

22                   "So that would have been like around -- do you  
23 remember when you guys started using Slack?

24                   "I do not.

25                   "2017 sounds about right?

1                    "I don't know."

2                    You guys can easily see when Slack got started because  
3                    you are going to have a Slack thread from my client and Vince  
4                    Palochko, someone that he never accused of doing anything wrong  
5                    until Vince Palochko teamed up with Tom Asaro and Dan Spataro  
6                    to facilitate the termination based on false pretext. So  
7                    you'll be able to see that, right?

8                    Then I said: "Well, we'll call it a thread. Was  
9                    there a Slack thread between you, you and Carl and Dan Spataro,  
10                   right?

11                   "Yes.

12                   "There was also a Slack thread between you, Dan  
13                   Spataro and Carl and other people, too?

14                   "Yes. It worked just like text messages.

15                   "And Slack is a cloud system, right?

16                   "Yes.

17                   "And you know what that is because you guys are a  
18                   cloud computing company, right?

19                   "ANSWER: Yes.

20                   "And so probably you know better than most people what  
21                   cloud computing is?

22                   "ANSWER: Yes.

23                   "And cloud computing means that the information is  
24                   stored in a server at a data center, correct?

25                   "Yes.

1                   "So do you know whether or not you have access to  
2 those messages?

3                   "Could you be more specific.

4                   "Sure. If you wanted to see what you sent to Carl the  
5 month before he was terminated, you can go look, right?

6                   "ANSWER: Yes, I can look."

7                   Right? So we know that there was messages that they  
8 all talked about. There was a thread between --

9                   MR. CAVALIER: Objection.

10                  THE COURT: The objection is sustained.

11                  MR. CARSON: Your Honor, I'm just talking about the  
12 testimony.

13                  THE COURT: Well -- okay. You can say that there was  
14 a thread between them, but that's all.

15                  MR. CARSON: Right.

16                  There was testimony -- we heard testimony in this case  
17 that there was a thread between Carl Williams and Dan Spataro.  
18 We heard testimony in this case that there was a thread between  
19 Carl Williams and Tom Asaro. We heard testimony in this case  
20 that there was a thread between Carl Williams and Dan Spataro  
21 and Tom Asaro. We heard testimony in this case that my client  
22 was locked out of the system and asked to return property as of  
23 August 19th. We saw that, too, right? There's documents to  
24 show that the minute they got rid of him, they wanted him to  
25 start returning property.

1                   Of course, they were so scared that they just had the  
2 officer manager do it. They thought Carl was going to kill  
3 somebody because, you know, his friend killed somebody or tried  
4 to kill somebody. And so they said, Lisa, why don't you go and  
5 handle Carl for us. That's how scared they were, right? Tell  
6 you that's something else in their story that makes no sense at  
7 all.

8                   So then we go to 2015 and 2016 and my client is  
9 testifying about what it was like when Dan Spataro started. He  
10 testifies about what it was like when he tried to report  
11 things. He testified that he reported these interviews, these  
12 inappropriate interviews where there is a deaf guy and they're  
13 sitting there watching a video and making fun of the way he  
14 talks. You know, like, mean, right? And they're doing that in  
15 an open room in front of everyone. We heard that. We heard  
16 that the guy was a little older. We heard that there was  
17 comments about older people. We heard that that was just  
18 something that they talked about and they thought was funny.  
19 Right?

20                  And then we hear about them moving to the Haddonfield  
21 office and how my client worked right across from Dan. Dan  
22 doesn't remember. My client remembered pretty clearly. And we  
23 heard about the conversations when Dan says these comments  
24 about older people, and my client turns around and says, wait a  
25 second, I don't agree with that. I still got it. I'm 50 and I

1 still got it.

2 I mean, if a 50-year-old guy who's been in the  
3 networking industry for 30 years, hears someone say that older  
4 people don't have it anymore, they don't have the chops, isn't  
5 it the most reasonable thing in the world for Carl to turn  
6 around and be like, what are you talking about? I still got  
7 it, look at me. Right? And that's what happened. You didn't  
8 hear Dan Spataro deny that specific conversation. He generally  
9 made denials when John asked him to -- leading questions.

10 So then that takes us to the network engineering  
11 department continuing to grow. And this is where I think  
12 defendants made some admissions they didn't need to make. We  
13 heard in the opening statement, we heard a promise that there  
14 wasn't one single report of age discrimination throughout this  
15 case. Now we know that's not true, right? Several.

16 So we know that Carl Williams went to the Pennsylvania  
17 Human Relations Commission -- pull that document up for the  
18 jury while I talk about it -- went to the Pennsylvania Human  
19 Relations Commission and he filled out a piece of paper there.  
20 And you're going to have it back there, you're going to be able  
21 to look at it, and that piece of paper has a date stamped on  
22 it. And it's a date stamp from the Pennsylvania Human  
23 Relations Commission that says it was received on that day.

24 You know, John keeps making this big thing -- oh, I  
25 call it a questionnaire, he calls it a charge. I don't care

1 what you call it. It's a questionnaire, great. The point of  
2 that document is not what it's called. The point of that  
3 document is that it has a date on it and it confirms what my  
4 client was thinking and feeling that day. And on that day what  
5 he was thinking and feeling is that he was upset for age  
6 discrimination -- you got it up there?

7 MS. MEYER: Yes.

8 MR. CARSON: I don't know if you guys can see it.  
9 That he was upset because of age discrimination -- what number  
10 is that one?

11 MS. MEYER: 34.

12 MR. CARSON: And that he was so upset that he went to  
13 the Pennsylvania Human Relations Commission to file a charge.  
14 When you still work for a company, ladies and gentlemen, the  
15 first time that you hear discrimination, you do not go to the  
16 Pennsylvania Human Relations Commission. This is not how it  
17 works, right.

18 MR. CAVALIER: Objection.

19 THE COURT: It's overruled.

20 MR. CARSON: That is a difficult step to take because  
21 that is when you are going out in the public and you are  
22 accusing your employer of illegal conduct, which is a big deal.  
23 That's why there's a retaliation clause in the law. In every  
24 anti-discrimination law, there is a retaliation clause because  
25 retaliation is not uncommon at all. Companies don't like these

1 accusations.

2 So my client went out and he filed this document on  
3 that day, and here's what we know. Right? We know that after  
4 he filed that document, within a month, that there was a  
5 meeting held. And it wasn't a regular meeting, this was a  
6 meeting that was specifically scheduled in the office of the  
7 chief operating officer. And Dan Spataro was present and Tom  
8 Asaro was present. And this is where their story -- they  
9 didn't get their stories straight, right? Tom Asaro says the  
10 meeting was just to talk about his -- he wasn't mad at all, he  
11 just wanted to be a director. He thought that having a  
12 director title over a manager title would be better.

13 Now, there's no evidence whatsoever that there was a  
14 manager title given before that, but I like that. If you guys  
15 want to assume he had a manager title, that's great. What it  
16 means is that he was promoted to manager without any change in  
17 income, without any announcement, without any change in what  
18 his job responsibilities were. Right? But Dan Spataro didn't  
19 agree with any of that. He said that never happened. Tom  
20 Asaro, wrong. He got on that stand under oath. Wrong.

21 And Dan Spataro said that he was wrong about several  
22 things, not just the manager title. But Tom Asaro also denied  
23 that he was upset during that meeting. Dan Spataro didn't. He  
24 was upset. And he said the reason why he was upset was age.  
25 That, ladies and gentlemen, is a report of age discrimination.

1 Right?

2 And you can't pick and choose the reports you respond  
3 to. That's not the way the law works. I know that the policy  
4 they have is optional, which is why it's no policy whatsoever.  
5 You cannot have an optional anti-discrimination policy. It's  
6 not disfavored. It's illegal to discriminate. It's not  
7 something that you just want to try to minimize. It's  
8 something you need to prevent in the workplace. And they have  
9 a policy where people are just encouraged to go if they see  
10 something. Right?

11 And so my client reported it, and Dan Spataro and Tom  
12 Asaro did nothing. And you heard Dan say, oh, I didn't think  
13 it was a big deal. It was a throw-away sentence. You think it  
14 was a throw-away sentence to my client, who, by that point, was  
15 so upset that he had filed a questionnaire? Let's use their  
16 words. He filed a questionnaire at the Pennsylvania Human  
17 Relations Commission. He went to two different meetings.  
18 First -- well, three actually. First he went to Tom Asaro,  
19 said that on direct examination. Tom Asaro said, yeah, that's  
20 what happened. Not only did Tom Asaro say that that was what  
21 happened, but he also said it happened exactly how my client  
22 reported it and testified to. That he went to him, he was  
23 asking about the promotion, and Tom Asaro said it's not me,  
24 it's Dan. Dan has all the authority.

25 You heard Tom Asaro say that Dan had blanket

1 authority. That's the word he used, blanket authority to do  
2 whatever he wanted, hirings, firings, promotions, terminations.  
3 Dan Spataro got up there and tried to deny that, disclaim it.

4 So then, lo and behold, there's a change in job title.  
5 The very thing he complained about in the questionnaire is  
6 amended or fixed, or whatever you want to use. And then, lo  
7 and behold, my client doesn't pursue that questionnaire, right?  
8 They never have to hear from them again, right? It didn't turn  
9 into this, it didn't turn into a charge process. It just  
10 disappeared. But they didn't know anything about it, there was  
11 no conversation. It was just a throw-away sentence during a  
12 meeting. That's what they want you to believe.

13 So now we're in 2019 and we know that Dan Spataro was  
14 bringing friends along on these trips. We saw pictures, right?  
15 And my client testifies that when they went out at night, they  
16 told him they didn't want him to come. That's very credible,  
17 right?

18 I mean, I really respect Carl Williams. He's the  
19 perfect person. He's what you want your kid to be. He grew up  
20 in a small town in America. Not a lot -- he's not wealthy. He  
21 didn't have a lot of money, a lot of support, a lot of family.  
22 But what he did have is integrity and what he did have is a  
23 good work ethic. And so he went to school, he learned a trade.  
24 He went directly -- high school, graduated; went directly to  
25 college, graduated; went directly to get his master's;

1 graduated. And then he begins working in this industry and he  
2 becomes extremely proficient in this industry over the years.

3 And I actually know how he feels. I don't know if you  
4 might have noticed this during this trial, I'm a little  
5 different, too. There are things about me that I don't fit in  
6 with people a lot of times either. And I've experienced that  
7 my whole life. So I know how he feels to be in a situation  
8 like that and have everyone just hate him. I mean, you heard  
9 about that Christmas party. That's just the worst behavior  
10 possible, correct? You know what I mean? You're going to tell  
11 someone to come to a party and everyone is sitting with people  
12 they know and say, hey, Carl, you're over there, dude. Get  
13 away from us. No one goes over to talk to him. The guy  
14 quietly left and drove home crying. He doesn't understand why.

15 And then in the final year of his employment, these  
16 things start getting taken away from him, and Dan starts  
17 telling people you're not going to have to worry about Carl  
18 anymore. He's not going to be here next year. And he starts  
19 telling Carl that Chris Aker is a generous guy. He'll take  
20 care of him if he just bounces out. Go ahead and resign.  
21 You'll get taken care of.

22 And then they begin an investigation into how to get  
23 him out of there, and Dan elicits the help. And this is what  
24 they said. He elicits the help of Vince Palochko and Tom  
25 Asaro, and the three of them work together to come up with a

1 lie. They could not say the truth. They could not tell him  
2 why he was going to be terminated. They had to hide it because  
3 the reason was bad. And what they want you to believe is that  
4 the reason had no negative effect on them, and that's not why  
5 people lie.

6 The reasons why lies are an important part of cases  
7 like this is because they show something. It's evidence of  
8 something, and it's consciousness of a guilty mind. People lie  
9 to get themselves out of trouble. They don't lie because, hey,  
10 you know, we could have said this other thing and this other  
11 thing had no negative consequences, but we just decided to lie  
12 for no reason.

13 Of course they had this other reason, right? And I  
14 can go over that with you, right? So we heard  
15 everything-but-the-kitchen-sink strategy when it comes to these  
16 lies, right? We heard that they lied because -- I'll just give  
17 you -- so because they were aware of prior litigation, because  
18 of the risk, because of a certain level of volatility. I'll  
19 submit to you, though, in this case we heard zero evidence of  
20 any volatility coming from this guy because it just doesn't  
21 exist. They want you to just see right past that and only see  
22 pedophilia, murder, pedophilia, murder. Isn't that reasonable?  
23 Isn't it reasonable, pedophilia and murder?

24 It's not the question. The question is did it happen,  
25 and it didn't happen. It's not what happened. He wasn't fired

1 because of those things. And I will provide you with a little  
2 explanation right now, and I'm going to base it on something  
3 called Occam's Razor, and Occam's Razor is a very simple way of  
4 thinking of things. And I would ask you when you're back there  
5 to please just consider this when you're looking at the  
6 evidence.

7                   Occam's Razor says the simplest -- all things being  
8 equal, the simplest solution is the right solution. And what  
9 that means is it's the solution that creates the least  
10 questions, it's the solution that answers the questions, and  
11 it's the solution that requires the least amount of assumptions  
12 to get to. And defendant's reason for this lie does not answer  
13 a single question about the evidence. It only raises  
14 questions. And defendant's reason for this lie, it doesn't  
15 explain anything. It just creates more questions, questions  
16 that were asked of every witness that went to that stand. And  
17 not one of them could provide a reasonable answer.

18                   Vince Palochko was the most honest about it and he got  
19 up and said, "I have no good reason for it." That's what he  
20 said, "I don't have a good reason." Right?

21                   Tom Asaro got up there and just said, "I don't know."

22                   Dan Spataro, who had the benefit of watching me do it  
23 to two other people before him, got up there and had some  
24 excuse that had nothing to do with the question. Well, I told  
25 the truth at the deposition.

1                   No, sir, you didn't, but here's the other thing, too.  
2 We know, because there's evidence of it, when this lie, when  
3 this plan, when this pretext was hatched. We know exactly when  
4 it happened, right? Because we know that he was terminated in  
5 August of 2020, and we know that the lie continued and that  
6 every single document and every single shred of evidence showed  
7 that the reason that he was fired was because of false policy  
8 violations, all the way up to December -- to November 9th,  
9 2022.

10                  And then the next time that they go on record is  
11 January 6, 2023, 56 days later. So we can pin down a 56-day  
12 window when this story changed. And what happens within that  
13 56 days? Well, Dan Spataro is about to testify. And if  
14 they're looking at the evidence and they're looking at the  
15 evidence that we see, they can't support a case with policy  
16 violations, right? They can't do it. It's not going to work.  
17 You can't fire someone for progressive discipline when the very  
18 first disciplinary thing that shows up in their file is the day  
19 of termination. And we're going to see that. I'm going to  
20 show it to you in a minute. And you can go back and look at  
21 it. It's the performance review that ends with the -- ends  
22 with the -- everyone putting in their two cents about why the  
23 termination happened. I think it's Exhibit 49.

24                  And so -- and so that's -- that's what they were  
25 facing. You can't -- you can't -- progressive discipline means

1 that it happened slowly over time.

2 And also, you can't have progressive discipline when  
3 half the things on the investigation list are just made up.  
4 They had like ten violations where what he did wrong -- he  
5 requested a reimbursement for money he spent. There's nothing  
6 wrong with that. If you spend your own money, you're allowed  
7 to say, hey, guys. I would submit this is for a business  
8 purpose. Can I have it back? And they can say yes or no, and  
9 that's it. We heard them testify about it, and not one person  
10 had ever been disciplined for that reason because companies  
11 don't discipline for that. It doesn't happen.

12 And so they're facing down a situation where they have  
13 to go on record, they have to testify under oath, and they need  
14 a better reason.

15 And then it hits them, right? They remember,  
16 termination, Carl. Carl, at that termination, is the one who  
17 gave them the idea, right? Wasn't Carl screaming about John  
18 Musbach? When Dan Spataro testified in his deposition, he  
19 couldn't remember who sent him the message. He couldn't  
20 remember -- he just remembered that somebody sent a message.

21 But we saw that message; was there a response? Any  
22 legitimate response? Is there any suggestion that they were  
23 panicked? That it was an unprecedeted crisis? That it was --  
24 that they were scared? That they didn't know what to do? No.  
25 Nothing. He ignored it because they were already working on

1 his termination. He didn't care at all. He just said  
2 whatever. He didn't send a single email or message to anybody.  
3 And they didn't send any emails or messages to anyone. There's  
4 no evidence that they responded to that. There's no evidence  
5 that that -- during the termination meeting, he kept asking him  
6 about it. And that was the one thing they weren't scared to  
7 talk about. No, Carl, it's not that. Over and over and over  
8 again.

9                   And if you want to hear the recording again, you can  
10 ask us while you're deliberating. And I think Judge Wolson  
11 said you can come out and listen to it again. Over and over  
12 and over. What they were scared to talk about was the policy  
13 violations. They had no problems answering questions about  
14 that because they didn't even know what he was talking about.  
15 Vince didn't. There's no evidence that Dan ever told Vince,  
16 right? So Vince is like, Carl, no, it's 100 percent not that.  
17 And every time he said it, he said with 100 percent confidence.

18                   And I would ask you to think about that, because when  
19 you look at every piece of evidence and you consider what the  
20 defendants are trying to tell you and you consider this  
21 alternative, right, this alternative -- and whether they got  
22 the idea from Carl, which, I think, is -- first of all,  
23 remember the scale, right? I just have to tip the scale.  
24 Probably, if I can prove that, that the plaintiff's position is  
25 probably the right position, I win. It certainly is a lot more

1 probable, right?

2                   When you apply this theory to this case, it answers  
3 every single question in this case perfectly. You will be left  
4 with no other questions. You will be left with no doubt. You  
5 will be left with no -- it's like the final piece of a puzzle  
6 that goes in and the puzzle's done and you know you did it  
7 right; right?

8                   It accounts for reason why there's no evidence. It  
9 accounts for the reasons why there's no messages. It accounts  
10 for the reason why every single time they're talking to each  
11 other, all they care about is these policy violations. And it  
12 accounts for the investigation into the policy violations. And  
13 it accounts for interrogatories, and it accounts for the change  
14 in the story, too. It accounts for everything. There's  
15 nothing left to ask. Boom. That's what happened, right?

16                   And whether he reminded them of it or whether they  
17 just remembered about it, what they knew is that they couldn't  
18 keep going with this story they were using for two years and  
19 three months. Had to change.

20                   And I'll suggest to you, ladies and gentlemen, that  
21 when you tell the same story consistently for two years and  
22 three months and every single document that you see supports  
23 that story -- and I'll just walk you through some of them,  
24 right?

25                   So we have the -- is it Exhibit 49 all the way to the

1 bottom. So we have Exhibit 49, right at the bottom where Tom  
2 Asaro is saying -- he's documenting policy violations, saying  
3 add these to the file. They talk about an investigation of  
4 policy violations that happened before that, and there's 16 of  
5 them. And so Vince Palochko is confirming that they had a  
6 conversation and that he was fired for policy violations.

7 And when Dan Spataro and Vince Palochko are having  
8 private communications, they're confirming that he was fired  
9 for policy violations.

10 And when Richard Ford got on the stand, no one updated  
11 him, right? When Richard Ford, the chief financial officer of  
12 the company, was asked why he was fired, what did he say? He  
13 said policy violations, right? That's what they told everyone.  
14 That's what they did. That's what they investigated, and  
15 that's why they fired him. And we know it's a false reason  
16 because they've admitted it's false, and they want you to just,  
17 just replace the false reason with something that was in their  
18 heads, something that they cooked up, and something that  
19 doesn't actually exist in reality. There's not a single  
20 document you're going to take back there that's going to  
21 suggest anything about the policy violations, anything about  
22 the false reason.

23 So here's what I'm going to do. When you go back  
24 there and you consider the evidence, I want you to think about  
25 the damages that flow from that. And you've heard about the

1 damages, right? And the damages in this case are several  
2 things, right? But the number I want you to really think about  
3 is the past wage loss, what Carl lost between the day of the  
4 termination and the present.

5 And, number one, we have these bonuses and you heard  
6 about them, right? Andrew Dampf's was -- all right. Tim  
7 Kaufman's bonus when Akamai purchased the company was \$329,811.  
8 He's one position below my client and he started two years  
9 after, right?

10 Adam Rambo, the kid who started in 2018 in his 20s,  
11 his bonus was \$217,895. By the way, he left the company. They  
12 brought him back right before the purchase. I wonder why that  
13 was. We saw that in evidence too, right.

14 Tom Duff was two positions below my client. His bonus  
15 was \$284,000, right? \$211.

16 The one person who has the same position as my client,  
17 and my client started two years before him, was Dan Spataro.  
18 They were both -- had a director position, right? John is  
19 going to get up and try to tell you how they are not similarly  
20 situated. They had the same title. They worked in the same  
21 department. His bonus was just shy of \$3 million. That's what  
22 he testified to, right?

23 Andrew Dampf is an important one because he talked --  
24 Andrew Dampf was hired one month before him. He was two  
25 positions lower, and his bonus was \$947,369, right?

1                   THE COURT: Five-minutes, Mr. Carson.

2                   MR. CARSON: Five-minutes. Thank you.

3                   And then I'm going to talk to you about the difference  
4                   in income. So my client, as a director, you saw what he was  
5                   earning, right? He was at 125 basically his entire career, and  
6                   then it went up a little bit and then it went up again. And  
7                   when he left the company, it was around 139, right?

8                   Tim Kaufman, a position below him, was earning -- in  
9                   2019, he was earning \$162,000 a year, and his went up to  
10                  168,000, right?

11                  My client was the least paid senior person there. And  
12                  everyone who was paid more than him was younger than him,  
13                  substantially.

14                  Andrew Dampf was at 142,000 in 2020 when my client was  
15                  terminated. He was two positions below my client.

16                  Steven Shaw, two positions below that, was at  
17                  \$187,000.

18                  So I'm going to ask you to go back and calculate these  
19                  differences and -- from the time that my client received the  
20                  director title. And then we all heard what Chad Staller said,  
21                  that his past wage loss claim from the time that he was  
22                  terminated until -- until the -- until the present or until he  
23                  mitigated his losses -- my client is not the type of guy to sit  
24                  back and just take a loss, right? He had to go out and get  
25                  another job. And so his total -- his total past wage loss was

1 236,000 -- well, I'll put it up here. It was \$236,958.

2 So what we're asking for is a past wage loss award  
3 that adds this number together, right? And we think the two  
4 numbers that you should consider the most relevant in this case  
5 for the bonus is the 3 million and the 1 million because this,  
6 you know, same position, two years' less seniority, two  
7 positions above this guy with one month -- starting within  
8 one month. Almost the exact same start time.

9 So what we're asking for is that you award a past wage  
10 loss that considers this number and this number as to what the  
11 bonus should have been, and add it to this number, right? And  
12 then we want you to take the difference between what my client  
13 earned at the time of termination, which was about 139,000, and  
14 consider what you think is fair considering he was the least  
15 paid person there. And that when he received a raise for the  
16 director, it wasn't a raise for the director. It was far less  
17 than what other people in the same department received.

18 And specifically, we heard from Dan Spataro, who said  
19 that when he received a director of promotion, his was more  
20 than \$7,000. I said significantly more? He said I don't know,  
21 but it was more than 7,000. And Dan Spataro's income that he  
22 testified to as a director was between 200,000 and 250,000,  
23 right? And then that would take care of the past wage loss  
24 claim.

25 And then we also want you to award something, and what

1 we're requesting is that you consider his compensatory damage  
2 claim. And his compensatory damage claim is basically his  
3 claim for emotional distress. So it's up to you how you want  
4 to handle that. I'm not going to give you a lot of guidance,  
5 but I would suggest that you should consider every single day  
6 that he was subjected to discrimination, from the day that you  
7 find that it started until the present, and that you should  
8 come up with some kind of formula to consider what one day  
9 emotional distress is like and then multiply that by the number  
10 of days that he suffered that emotional distress, you know.

11                   And the last thought I'm going to leave you with is  
12 this: Sometimes people tell the truth while they're lying,  
13 right? And in this case, we heard a lot of things in this case  
14 that suggested the truth, right? And that's because when  
15 people lie, they can't help but just let things slip out. And  
16 we've seen a lot of evidence of things slipping out. Not  
17 one -- no two stories from the defendant's side fit together.

18                   Vince Palochko admitted that the reason for the lie  
19 was to hide the actual reason. He said that. We were just  
20 trying to hide the actual reason.

21                   I asked why he kept lying to -- and why -- why were  
22 they keeping up this charade when my client wasn't around, and  
23 he said, well, because it wasn't a charade. That's right. It  
24 wasn't a charade, right? That's what was really happening back  
25 at that time.

1                   THE COURT: Time, Mr. Carson.

2                   MR. CARSON: Thank you, Your Honor.

3                   THE COURT: Mr. Cavalier.

4                   MR. CAVALIER: Thank you, Your Honor.

5                   Good morning, folks. So finally, we come to the end  
6 here today, and I have a few minutes left to chat with you  
7 before you start your deliberations.

8                   Before I get into the substance, I do want to say  
9 thank you for your willingness to serve on this jury and for  
10 your attentiveness during these last seven days. When we first  
11 met, I told you that your time was precious. You're spending  
12 time away from your families, your jobs, the things you like to  
13 do in your daily lives, and that we would try our best not to  
14 waste any of it. And I truly do hope that I've lived up to  
15 that.

16                  You know, this court, the Eastern District of  
17 Pennsylvania, is a special and historic court. In addition to  
18 it being my home court, this is one of the 13 original federal  
19 judicial districts that was established in 1789 by Congress.  
20 The court used to sit right down the street -- I think it's  
21 that way -- at Independence Hall. There have been more than  
22 100 judges to preside over this court. They are all appointed  
23 by the President, confirmed by the Senate. Judge Wolson is  
24 No. 102. Thousands and thousands of juries have sat,  
25 essentially, where you now sit and helped citizens of the state

1 decide disputes just like this. And it's an honor to be here,  
2 to be a member of this bar, to present my client's case to you.

3                   And I told you in my opening remarks that, regardless  
4 of your verdict, I hoped that when you left here after this  
5 trial is over that you took with you some sense of civic pride  
6 and satisfaction at having done your duty and at having been  
7 the latest in a long line of juries to preside over disputes  
8 and decide those disputes in this court. So I just wanted to  
9 thank you for that first.

10                  In my first remarks to you, I also said, just as  
11 Mr. Carson reminded you, I've always been taught to think of  
12 opening statements as a promise to jury. And I told you then,  
13 and Mr. Carson reminded you, that if I was able to uphold those  
14 promises, I would come back to you at the end and I would ask  
15 you to rule in favor of my client. So that's essentially what  
16 I'm going to do now, I'm going to talk to you about some of  
17 those promises.

18                  First off, I told you this case was about a company  
19 with a clear policy prohibiting discrimination, right? We saw  
20 those handbooks. We saw the policies. They included not only  
21 a clear policy prohibiting discrimination based on age or  
22 sexual orientation, they included a reporting mechanism whereby  
23 employees can make complaints about discrimination to either  
24 company leadership or to human resources.

25                  Mr. Williams acknowledged that he knew of those

1 policies, he was aware of them, and he agreed with me when I  
2 asked him whether he was aware that at all times during his  
3 employment, age and sexual orientation discrimination were a  
4 violation of those policies. All of that is undisputed and  
5 uncontradicted.

6 Mr. Carson continues to refer to it as an optional  
7 policy. The simple reason for that, as I think you've heard,  
8 is that you can't force employees to report every instance that  
9 the company might think is harassing, right? You don't want to  
10 have to discipline an employee for violating policy simply  
11 because they chose not to report some harassment they might  
12 have been receiving, right? That's something that's very  
13 deeply personal to the employee. If the employee wants to come  
14 forward, under Linode's policy during that time, they have that  
15 right.

16 I also told you that Mr. Spataro and Mr. Asaro and  
17 Mr. Palochko would all tell you, clear as day, that they never  
18 saw any age discrimination or sexual orientation  
19 discrimination, that no age discrimination or sexual  
20 orientation discrimination was reported to any of them, that  
21 Mr. Williams never reported any such discrimination to them or  
22 anyone else at Linode, and that they never once treated  
23 Mr. Williams differently based on his age or sexual  
24 orientation. And they testified to exactly that.

25 I told you that you'd hear evidence establishing, and

1 it's undisputed, that Mr. Williams was one of the -- he was the  
2 highest paid employee at Linode when he was hired at 50. I  
3 think the testimony was also clear that throughout his  
4 employment up until the very end, he was in the top 10 percent  
5 of highly-compensated employees at Linode. That's all  
6 uncontradicted.

7 I told you you'd hear evidence establishing that,  
8 while Mr. Williams was hired based on his impressive resume and  
9 his stated technical abilities, it very quickly became apparent  
10 at Linode that he was probably ill suited for that role. You  
11 heard Mr. Spataro talk about that. You heard Mr. Conway talk  
12 about it. You heard several other witnesses explain why his  
13 inability to participate in these outages and these hacking  
14 attacks on a technical level was frustrating to them.

15 Did Linode terminate Mr. Williams for not living up to  
16 the skills that he set forth in his resume that he claimed he  
17 had? Did they reduce his compensation? Did they demote him to  
18 a lower title? Did they transfer him to a less desirable  
19 assignment? No. They kept him on. They found things that he  
20 was good at. They found things for him to do that suited the  
21 talents that he did have. And ultimately, over the period from  
22 September 2018 to January 2019, they crafted a custom role to  
23 promote him into, especially for him, so that he could do more  
24 of what he liked to do at work, do more of the things that he  
25 wanted to do at work, and find a place where he could exercise

1 the talents that he did have.

2 And when he came back to Linode and said, hey, listen,  
3 I appreciate this promotion to manager but I think I'd be more  
4 effective if I had a director title, what did the company do?  
5 They gave it to him, right?

6 So I ask you, as you consider this and you go back to  
7 deliberate, does that sound like the action of a company that's  
8 just looking for an excuse to discriminate against somebody  
9 because they're older or because they're gay?

10 And by the way, it's interesting to me that, on the  
11 one hand, when he's claiming that Linode treated him poorly  
12 based on his age or his orientation, according to Mr. Williams,  
13 this promotion is just a sham -- right? -- just to shut him up  
14 because he filed that PHRC questionnaire.

15 But when he asks you to compensate him for the alleged  
16 harms, it's a real position, comparable to Mr. Spataro and his  
17 \$3 million bonus. So why is that? Which is true? Ask  
18 yourselves that. I'll leave it up to you to decide.

19 I think this contradiction speaks to Mr. Williams'  
20 credibility. And on that note, I'm not going to go through all  
21 of his testimony, right? He was on the stand for four days.  
22 You observed him the entire time and, again, credibility is  
23 your province. All right? You make those determinations, not  
24 me.

25 But I do want to point you to just a couple telling

1 pieces of that testimony in addition to the changing views on  
2 whether this promotion to director was a scam for  
3 discrimination purposes or a real promotion for damages  
4 purposes.

5 You heard Mr. Williams tell you on direct from his  
6 attorney, and this just sticks out in my head because I happen  
7 to like the show, that he suggested at some point to  
8 Mr. Spataro, his boss, that he watched the show *West World*.  
9 Right? It's this show on HBO about AI robots. And apparently,  
10 according to Mr. Williams, Mr. Spataro said, no, I don't like  
11 sexuality in my TV shows.

12 And Mr. Williams told you that he was so hurt and his  
13 identity was so offended by his boss' refusal to watch this TV  
14 show that he went home, called his doctor, got his meds upped,  
15 and cried in bed for three days. Okay?

16 And yet, you heard me take him through the questions.  
17 When I asked him what emotional distress he suffered when his  
18 partner, his companion, as he called it, he said they were like  
19 a married couple, was going through all of the fallout from his  
20 earlier child pornography charges, what emotional distress he  
21 felt when his companion of four years was busted for attempted  
22 murder of that child, was ultimately incarcerated, he sat up  
23 there on that stand and he said, nope, that didn't cause me any  
24 emotional distress at all. I was concerned. Not distressed;  
25 concerned.

1                   The reason for this seemingly inexplicable  
2 inconsistency is that Mr. Williams is seeking compensation for  
3 emotional distress that he ties to the loss of his job at  
4 Linode. He's here to try to recover money for that emotional  
5 distress. He can't recover for emotional distress caused by  
6 any external sources. So you see, he couches it in terms that  
7 will allow you, if you find in his favor, to compensate him for  
8 it. That's a credibility issue. And I would respectfully  
9 suggest to you -- and again, this is up to you to determine --  
10 but this -- this seemingly unresolvable contradiction is at the  
11 heart of his credibility in this case. And it's exacerbated by  
12 the fact that there is no documentation in this case showing  
13 that he ever once complained to anyone at Linode about age  
14 discrimination, sex discrimination, sexual orientation  
15 discrimination, harassment, or anything. And I'll get to that  
16 in a second.

17                   But for the time being, I wanted to remind you of one  
18 other thing. I told you right out of the gate that Mr. Spataro  
19 and Mr. Asaro and Mr. Palochko, the three people ultimately  
20 responsible for the decision to terminate Mr. Williams'  
21 employment, would all testify that the decision had nothing to  
22 do with his age, nothing to do with his sexual orientation, but  
23 that it was caused by the fact that this article was published,  
24 showing that he had not only been partnered up with someone who  
25 had been convicted for child pornography crimes, which

1 Mr. Spataro I think testified very clearly about, but that he  
2 remained with that person and now was exposed or magnified,  
3 whatever you want to call it, in the newspaper, alleging or  
4 telling the reporter that he had known about Mr. Musbach's  
5 issues with child porn. And that's a direct quote from the  
6 article, by the way, "I'd known all about his issues with child  
7 porn."

8 And Mr. Spataro got up on the stand and told you,  
9 quite honestly, I felt, and powerfully that this hit him in his  
10 gut. Right? I mean, he was disgusted by it. And he said to  
11 the company, flat out, either he goes or I go. I'm not going  
12 to work with him another day. He verified that on the stand.  
13 It was uncontradicted. Mr. Asaro told you that that's exactly  
14 what Mr. Spataro did.

15 And I submit to you that his reaction under these  
16 circumstances is eminently reasonable, right? I mean, look,  
17 whether you think it's fair or unfair, the guy doesn't want to  
18 work next to somebody who hangs with a pedophile. I don't  
19 think that's the most concerning character flaw for someone to  
20 have. There are certainly worse traits. And ultimately,  
21 that's a value judgment that Mr. Spataro is entitled to make,  
22 right? I mean, that's not against the law. So consider that  
23 when you go back to deliberate.

24 Again, I told you at the very beginning of this trial  
25 that you wouldn't see one single piece of documented

1 contemporaneous evidence that Mr. Williams ever complained to  
2 anyone, at any time, at Linode about age and sex  
3 discrimination. The only document that you're going to see in  
4 the actual evidence when you go back there, you'll have these  
5 exhibits, is this EEOC questionnaire, this PHRC questionnaire.  
6 Right? And the plaintiff focuses on that because he needs it  
7 to rebut this idea that there is absolutely no evidence in the  
8 case that he ever complained to anybody at Linode.

9 The problem is he didn't give it to anybody at Linode.  
10 They didn't know about it when they had that meeting. All  
11 three of them testified that they never saw that document  
12 before litigation.

13 I told you in the beginning that you would see  
14 communications from Mr. Williams to the director of human  
15 resources at Linode, Mr. Palochko. It was a hundred pages  
16 long. It spanned four years. I want you to think about --  
17 you've all worked for a living. Think about your human  
18 resources director. Think about whether you could ever imagine  
19 yourself having a hundred pages of communications with that  
20 person. In the meantime, you're suffering age discrimination,  
21 you're suffering sexual orientation discrimination, and not  
22 once over four years with a direct line, a digital open door to  
23 the human resources director of your company, dare I say it's  
24 something approximating a friendship based on what those  
25 documents say, and not one time in four years do you make one

1 single remark about this discrimination that you were  
2 supposedly suffering. Consider that.

3 And you saw in there, by the way, he wasn't shy about  
4 complaining? Right. I mean, he complained about everything,  
5 bugs in the salad, office is too cold, somebody moved the desk.  
6 Right? This was not somebody who was shy about making his  
7 grievances known.

8 You'll have this document. It's Exhibit 22. Take a  
9 look at it if you care to back in the deliberation room. And I  
10 challenge you, just as I challenged Mr. Williams on the stand  
11 over the course of my cross-examination, to find me one  
12 instance in that document where he complained about anything  
13 that he's now alleging in this case.

14 As a matter of fact, the only mention of anything in  
15 that document relating to this case at all is towards the end  
16 in 2020. Again, against the backdrop where Mr. Williams is now  
17 telling you he's been through six years of hellish  
18 discrimination at the company, the one single mention of  
19 anything related to the issues in this case is when  
20 Mr. Williams tells Mr. Palochko, I just wanted to let you know  
21 that I think Chris Aker and you, Mr. Palochko, have been very  
22 accommodating on LGBT issues since I started at the company.

23 I don't know how you can reconcile that with his  
24 claims today, but, again, that's your job, not mine.

25 Speaking of Mr. Aker, I also showed him a thread with

1 Mr. Aker. This is the founder of the company, the President.  
2 Right? 100 percent owner. And you'll recall that thread that  
3 clearly shows they had a familiar relationship with one another  
4 because of all those photos of fish dinners that Mr. Williams  
5 was texting to him. Again, an open line of communication.  
6 Right? It's the digital ages open-door policy to the owner of  
7 the company, and never once does he say anything related to age  
8 or sexual orientation. Not a single remark. Not a, hey, can I  
9 pull you aside and talk to you about something that's bothering  
10 me. Not once.

11 I showed you and Mr. Williams a text thread between  
12 himself, Mr. Spataro, and somebody named Jimmy G from that  
13 business trip to Panama. Right? And Mr. Carson referenced it  
14 during his closing to you.

15 As you recall, on direct examination, Mr. Williams  
16 referenced this trip as the one where he felt like he got left  
17 behind by these two guys while they went out, according to  
18 Mr. Williams, trolling for girls. You heard Mr. Spataro tell  
19 you how he felt when he was essentially accused of infidelity  
20 by his former colleague on the stand.

21 Again, contemporaneous communications among all three  
22 of the principals and not one mention of age discrimination,  
23 sexual orientation discrimination, not one stray remark, not  
24 one ignorant comment, nothing. It's just a vacuum. That's  
25 Exhibit 145, by the way, as you're back in the deliberations

1 room. 138 is the Chris Aker text thread.

2 And again, you didn't see one single piece of evidence  
3 in any of the documents, any of the actual evidence that is  
4 before you in this case, to indicate that prior to 2020,  
5 Mr. Williams ever once, just once, took issue with anybody's  
6 behavior at Linode on the basis of his age or sex. Right?  
7 Just this PHRC questionnaire that nobody ever saw until years  
8 later.

9 You know, I want to talk to you a little bit about the  
10 evidence in the case. I think this evidence that we're talking  
11 about shows that Mr. Williams enjoyed his experience at Linode,  
12 that he had a friendly relationship with all of his co-workers.  
13 Now, you heard a lot about this during this trial, and you  
14 heard Mr. Carson try to talk about it earlier. And it's been  
15 an issue throughout, right?

16 I mean, you've heard Mr. Williams on the stand say  
17 that he has all of this documentation somewhere. Right? He  
18 just doesn't have it. He didn't bring it with him. Right?  
19 The smoking gun is out there somewhere, but nobody brought it  
20 to court.

21 I'm going to ask you to look at Section 1(b) of the  
22 instructions that His Honor gave you on Friday -- and you'll  
23 have a copy back in the jury room -- that says the following  
24 things are not evidence: Statements, arguments, and questions  
25 of the lawyers for the parties in the case; materials that a

1 lawyer or witness referenced that I have not admitted as  
2 evidence. All right?

3 This is a trial. Okay? This is serious business. If  
4 a plaintiff like Mr. Williams could just come to court and say,  
5 you know, I have all this wonderful evidence at home, I just  
6 didn't bring it to court with me, that's what every plaintiff  
7 would do. Right? It's the whole idea of trial. You show up  
8 with your best evidence, the best that you got, you present it  
9 to the jury and you let them decide.

10 Again, I encourage you, when you go back to the jury  
11 room, you will have a binder of the exhibits in this case.  
12 Flip through it and see if you can find what nobody else in  
13 this trial could find. Again, one single instance of alleged  
14 discrimination by Mr. Williams against Mr. Spataro or anyone  
15 else at Linode at any time prior to his termination.

16 By the way, on that note, where are the witnesses?  
17 Right? You heard Mr. Williams on the stand during his  
18 testimony over four days mention a lot of names. Where are  
19 they? All these people who made these ignorant remarks to him  
20 allegedly, all these people who -- you know, making fun of the  
21 deaf person. I don't know what deafness has to do with this  
22 case, but we just heard about it again during Mr. Carson  
23 closing. All of these things, these horrible things that  
24 allegedly happened, where are the witnesses? Right? They  
25 don't all still work for Linode. We brought the only witness

1 in who's not connected to this case, Mr. Owen Conway, who  
2 again, was brought up by Mr. Williams on the stand.

3 I would submit to you that if those people existed and  
4 would say what Mr. Williams wanted them to say to support his  
5 case, he would have brought them to trial. But they are not  
6 here. Could have called any one of his co-workers to back up  
7 what he was saying against Dan Spataro. He didn't do it.

8 While we're talking about Owen Conway, I do want to  
9 mention something about his testimony here. He -- you know, in  
10 my mind, he might be the most important witness in the entire  
11 case. He's not my client. He doesn't work for Linode. He  
12 doesn't work for Akamai. Right? He's got no horse in this  
13 race. He's got nothing to gain or lose from his testimony  
14 here. He has no connection and, frankly, no real reason to  
15 care what happens here.

16 And instead, he came in here as an out and proud  
17 51-year-old gay man and told you that he never experienced or  
18 saw any age or sexual orientation discrimination during his  
19 time at Linode. As a matter of fact, he told you -- and you  
20 might remember this -- if he had seen any of that kind of  
21 conduct by Mr. Spataro, he would have given him a slap because  
22 he doesn't stand for that kind of thing. I found that telling.  
23 Again, I'll leave it to you to ascribe what importance to give  
24 to a witness who has no reason to be here, no reason to lie, no  
25 reason to tell you anything other than the truth.

1                   And by the way, on that point, since we are here to  
2 talk about age and sex discrimination, I also found it  
3 interesting that Mr. Williams' team at the time, this team  
4 where he was supposedly suffering all this age and sex  
5 discrimination, is a four-man network engineering team in  
6 Southern New Jersey. Four people on the team, two guys that  
7 are older, both of whom are gay. 50 percent older, gay men as  
8 part of that team. I'll tell you that if the company is  
9 discriminating against people on the basis of age or sexual  
10 orientation, they sure have a funny way of showing it. Right?  
11 I mean, we're in the 50 percent hit rate.

12                   All right. Let me move forward a little bit here. I  
13 told you in the beginning that it's helpful to think of this  
14 trial really in two parts, right? I mean, there's the  
15 pre-termination conduct that Mr. Williams is alleging and then  
16 there's the termination conduct. I just told you all about why  
17 there's not a lick of evidence in this case in evidence before  
18 you on the pre-termination stuff.

19                   Let me talk to you a little bit about the termination  
20 itself. You're going to see on the verdict sheet that  
21 Mr. Williams bears the burden of proof. Right? He has to  
22 prove his claims to you. I heard Mr. Carson talking about what  
23 defendant was trying to prove in this case. We don't have to  
24 prove anything to you. I think we proved a lot, but it's not  
25 our burden to prove anything to you. It's his burden.

1                   The rules of court require him to come to trial,  
2 present his testimony, his evidence, his witnesses, his  
3 documents, and to persuade you with that actual evidence. Not  
4 innuendo, not screaming and yelling, not -- you know, well, if  
5 you think about it this way and you torque it the other way and  
6 then you cram it into this logical hole, it says what I want it  
7 to say. Right? Evidence. Look for the evidence you're going  
8 to have in front of you. And I'm going to respectfully submit  
9 to you that he's failed to carry his burden by a wide margin.

10 Okay? Especially with respect to his termination.

11                   There is no evidence in this case other than  
12 Mr. Williams' own testimony to support this notion that his  
13 termination had anything to do with his age or his sex.  
14 Mr. Williams and his attorney know this. Right? They are  
15 aware of it. And so, instead, they are attempting to convince  
16 you that because these guys lied to Mr. Williams about the  
17 reason for his termination -- I said this to you in my opening  
18 statement -- that somehow you're obligated to take the leap  
19 from the lie to a finding that he was discriminated against.  
20 That's a red herring, all right, and I'm going to tell you why.

21                   They pin their entire case -- and Mr. Carson's entire  
22 closing essentially was based on their hope that you would fall  
23 for it and ignore the law and the facts in this case. We have  
24 a popular saying amongst lawyers. I think it applies to this  
25 case. It goes like this: If the facts are on your side, you

1 pound the facts. If the law is on your side, you pound the  
2 law. And if you don't have either the facts or the law, you  
3 pound a table. What you saw from Mr. Carson and his client in  
4 this case was pounding the table.

5 These guys told you why they lied to Mr. Williams  
6 about his termination. They told you that he had sued a prior  
7 employer, they knew it, and they didn't want to get sued.  
8 That's a reasonable reaction. You may not like it, but given  
9 the boat they were in, I think it's very reasonable and,  
10 frankly, very credible to say we didn't want to get sued by  
11 this guy.

12 They also knew -- and they told you this -- that  
13 Mr. Williams was not a guy to take bad news well. We all heard  
14 that borne out in real-time when we listened to the 27-minute  
15 recording that Mr. Carson played for you. They played it for  
16 you. We didn't. And we heard Mr. Williams yelling and  
17 demanding and repeating himself, threatening. Certainly I  
18 think we heard a different Mr. Williams in that call than the  
19 one that he portrayed to you on the stand.

20 For third, they told you they had safety concerns.  
21 Mr. Carson ridiculed those concerns, but the witnesses told  
22 you, and I submit to you that it's a reasonable response, that  
23 given that this article had been published saying that this  
24 former employee of theirs, Mr. Williams' partner, tried to go  
25 out on the internet and hire a hitman to murder a child, it's

1 reasonable for them to have just the least bit of concern that  
2 if they were to tell Mr. Williams we're firing you for your  
3 relationship with this guy, and he went and told Mr. Musbach,  
4 something bad could happen. I don't know what, you don't know  
5 what, but it's certainly reasonable fear under those  
6 circumstances.

7 And finally, they told you that this was an  
8 unprecedented situation at work, a potential crisis for the  
9 company, and they were looking to handle it in the quickest,  
10 cleanest, and safest way they possible could. Right? So they  
11 told him we're terminating you for policy violations. That had  
12 nothing to do with his age or his sexual orientation and  
13 there's no evidence in the record, no evidence that you are  
14 going to have in the jury room, and frankly, no testimony other  
15 than Mr. Williams' own self-serving remarks that even remotely  
16 indicate that that was the case.

17 Mr. Williams knows that and he's known it from the  
18 very beginning. Right? You heard that call. You heard him  
19 ask dozens of times in that call, this is because of what  
20 happened with John Musbach last week, right? He knew that at  
21 the time. He recorded the call at the time. The reasonable  
22 inference to draw from that is that he was planning to sue, and  
23 he was planning to sue them because in his view -- just like he  
24 said on the call -- it was somehow unlawful or illegal for the  
25 company to fire him due to his relationship with Mr. Musbach.

1 Firing Mr. Williams because he was affiliated with  
2 Mr. Musbach is not against the law. You will find nothing in  
3 the judge's instructions that indicate otherwise. You may not  
4 like it, right, you may not think it's fair, you may think it's  
5 overly harsh, but it's not against the law. And Mr. Spataro is  
6 entitled under the law, given his personal preferences to not  
7 work with people who associate with pedophiles, to make that  
8 point known to his company, and his company is well within its  
9 rights under the law to fire him for that reason.

10                   Instead of confronting that, right, and instead of  
11 coming to you with evidence, what do they do? They bang the  
12 table on and on and on about this lie. Right? We've heard far  
13 more about the lie than we've heard about any actual evidence  
14 of age discrimination, any evidence of sexual orientation  
15 discrimination, any evidence that the lie was motivated by  
16 those two things, any evidence that the lie was to cover those  
17 things up. There's no evidence in the case of that. They want  
18 you to make that long leap from the fact that they lied to him  
19 about the reason for his termination to somehow out of thin air  
20 conjuring up a finding that he was actually terminated for sex  
21 or his age.

22 There's two problems with that, though. Right?  
23 First, you heard every witness who came in here to testify to  
24 you from Linode that those policy violations were real. They  
25 actually happened, right? And you heard Mr. Spataro talk about

1 them and you heard Mr. Asaro talk about them, and most  
2 importantly, I think, you heard Mr. Ford come in here to tell  
3 you about them. And it's pretty clear that he was pissed off  
4 about those violations, right? And he kept coming to Dan  
5 Spataro and telling him, look, you got to get this guy under  
6 control.

7 Mr. Spataro never disciplined Mr. Williams for any of  
8 those violations. If he was just lurking and itching for a  
9 reason to get rid of the guy because of his age or his sexual  
10 orientation, why wouldn't he take the opportunity presented by  
11 Mr. Ford when he comes to him and says, hey, Dan, Mr. Williams  
12 is buying \$1,400 Mets ticket on the company card. Right? This  
13 can't happen. You got to do something about it. What a great  
14 excuse, right? This is the exact reason I was looking for to  
15 get rid of the guy because he is old, because he's gay.

16 What did Dan Spataro do? He says, don't worry about  
17 it, Ford. You know, he's my guy, I'll deal with it. And they  
18 treated him with kid gloves. They treated him well. They  
19 treated him more fairly than I think a lot of people would have  
20 been treated on that issue. And frankly, some of that  
21 treatment was self-interested, right? I mean, maybe they were  
22 being nice, but they were also protecting themselves. They  
23 knew the guy had sued a prior employer, and so these policy  
24 violations that kept cropping up -- you know, he was providing  
25 value to the company. We acknowledge that. It's okay, right?

1 We're going to let him get away with it, we're going to let him  
2 slide. That's not the response from a company that's just  
3 looking for an excuse to get rid of somebody.

4 As I said -- and secondly, I want to be very clear on  
5 this point. There is nothing in the law, nothing in the  
6 Judge's instructions, nothing in the evidence that requires you  
7 to find that this reason, this lie, as Mr. Carson calls it,  
8 that they told Mr Williams about at the time they fired him, is  
9 linked in any way to age discrimination. You need evidence to  
10 make that link. Even if you disagree -- as I told you, even if  
11 you think it was wrong to lie to Mr. Williams -- right, maybe  
12 you have a belief that employers should always be completely  
13 open and honest, maybe you believe that, you know, their safety  
14 concerns were overblown, whatever. Even if you think it was  
15 wrong or unfair or not the right decision or just flat-out  
16 rude, it's not unlawful.

17 That's what we're here to decide. This is a court of  
18 law. It's not the court of fairness, it's not the court of  
19 hurt feelings. It's the court of law. Ultimately that  
20 inference is not available to you if the evidence doesn't  
21 support it. And ultimately, that's really what we're here to  
22 decide, right? I mean, the issue that matters here is whether  
23 Mr. Williams carried his burden of proving to you -- not  
24 alluding to, not inferring, but proving to you with evidence  
25 that his treatment at Linode was somehow discriminatory based

1 on his age or his sexual orientation, and there's just no  
2 evidence of that.

3                   And again, if I could refer you to the Judge's  
4 instruction, this is under heading 2 in the document that  
5 you'll have back there with you. His Honor has already  
6 instructed you on this yesterday, but I point you to the  
7 section that says this. This is a quote from his instructions:  
8 For Mr. Williams to recover on his claims that Linode treated  
9 him differently, he must prove by a preponderance of the  
10 evidence that Linode intentionally discriminated against him on  
11 the basis of either his age or his sex, including sexual  
12 orientation.

13                   You'll see that it also says that Mr. Williams must  
14 prove that he was subjected to discriminatory treatment and  
15 that his age or sexual orientation was a determinative factor  
16 at the time.

17                   Lie or no lie at the time that he was terminated about  
18 whether his termination had anything to do with Mr. Musbach, he  
19 hasn't provided any evidence at all of either discriminatory  
20 treatment in the first instance and certainly not that any  
21 discriminatory treatment that didn't occur was somehow  
22 motivated or a determinative factor in their decision relating  
23 to his employment, his termination.

24                   And that in that same section of the Judge's decision,  
25 you heard yesterday, and you'll hear and see again today, the

1 Judge is telling you that Linode has given a non-discriminatory  
2 reason for its decisions regarding Mr. Williams' pay, profit  
3 sharing, and termination. Linode's non-discriminatory reason  
4 is Mr. Williams' affiliation with John Musbach.

5 If you believe Linode's stated reason and if you find  
6 that the decisions regarding pay, termination, and profit  
7 sharing would have occurred because of Linode's stated reason,  
8 regardless of Mr. Williams' sex or age, then you must find for  
9 Linode. That's it right there. I want to repeat that because  
10 I think it's critical, and this is the Judge, not me.

11 "If you believe that Mr. Williams was terminated or  
12 discriminated against due to his affiliation with John Musbach  
13 on the termination issue, you must find for Linode."

14 Judge Wolson also tells you that in determining  
15 whether Linode's stated the reasons for its action -- again,  
16 the stated reason for the actions in this courtroom, in this  
17 case, is not the policy violations. It's his affiliation with  
18 Mr. Musbach. You can't question Linode's business judgment.  
19 You can't find intentional discrimination simply because you  
20 disagree with the business judgment of Linode or believe it's  
21 harsh or unreasonable. You are not to consider Linode's  
22 wisdom. That's from the instructions that you received  
23 yesterday and that you'll have with you today.

24 Again, I told you that even if you, therefore, think  
25 that they did the wrong thing in lying to him, even if you

1 think that was despicable, that doesn't allow you to find that  
2 they discriminated against him based on his age or his sexual  
3 orientation.

4 Finally, Judge Wolson told you that you must decide  
5 whether Mr. Williams has proven that his age or his sexual  
6 orientation was a determinative factor in Linode's employment  
7 decisions. He defines it as a determinative factor for you as  
8 meaning that if not for his sexual orientation or age, his  
9 termination would not have occurred.

10 Listen, folks. I know that you're eager to  
11 deliberate. I know that it's been a long week. You're  
12 probably sick of hearing lawyers talk. I promise I'll let you  
13 get to it in a minute, but I do want to say one more thing  
14 before I sit down.

15 This is normally the part of the closing argument that  
16 I make where I would do what I call the CYA paragraph, what you  
17 might think of as just covering all your bases. And what I  
18 would normally do is I would tell you, listen, I think that you  
19 should agree with me. I think you should find for my clients,  
20 but just in case you don't, I think you should only award a  
21 small amount of money.

22 I'm not going to do that here. I'm not going to waste  
23 your time with it. I'm not going to waste my time with it.  
24 And the reason for it is that there is just no evidence here in  
25 this case to support a liability finding for Mr. Williams.

1                   Lastly, I do want to acknowledge that -- I mean, look.  
2 There's no doubt that Mr. Williams has had a rough road over  
3 the last couple years. Right? I mean, he loses a job with  
4 Linode that, by all indications, including the documents, the  
5 guy really enjoyed. He seemed to really enjoy his co-workers.  
6 He had to contend with the fact that his partner of four years  
7 was arrested for awful crimes, and all that after Mr. Williams  
8 helped the guy through these issues he had with child  
9 pornography. You know, the guy gets arrested again. Even  
10 though Mr. Williams himself tried to convince you that that's  
11 not enough to cause emotional distress, I think we all can  
12 agree that's a pretty tough beat by any standard, right?

13                   So when you go back to deliberate, you may find  
14 yourself feeling sorry for the guy. I don't think that's  
15 unreasonable. You may look at Linode as a company with  
16 resources, and, I mean, after all, what difference would it  
17 make if we threw the guy five grand, ten grand, you know, just  
18 as an acknowledgment that we see his suffering.

19                   You might feel a pull to disregard the instructions of  
20 the Judge. And from a place of really compassion, you might  
21 decide that whatever the law says, whatever the Judge has told  
22 us, whatever the evidence says, that -- the recognition of the  
23 fact that the guy has had a hard time, we'll give him  
24 something.

25                   I'm going to ask you now to please resist that urge.

1 Okay? Resist the urge to ignore the evidence and the lack of  
2 it. Resist the urge to ignore the Judge's instructions and the  
3 law. Feel good about the fact that you gave Mr. Williams  
4 seven days of your time. You gave him a forum to tell his  
5 story. You gave him your full attention for a week. Feel good  
6 about the fact that you gave him his day in court. That's far  
7 more than most employees who are terminated receive.

8 You also heard Mr. Spataro, Mr. Asaro, and  
9 Mr. Palochko tell you what it's been like for them to be  
10 accused of discrimination, to be accused of being a bigot in  
11 today's age. They are the accused.

12 Mr. Spataro sat on that stand. He's been here all  
13 week listening to the horrible things that Mr. Williams said  
14 about him, and he told you very clearly how that felt.

15 Mr. Asaro, who you heard, is retired. He doesn't work  
16 for Linode or Akamai anymore. He had no reason to come back  
17 here and testify except to defend his reputation. He came in  
18 here, just like Mr. Spataro did and just like Mr. Palochko did,  
19 and they told you that their reputations and their good names  
20 were at issue in this case.

21 It's up to you to make sure that their reputations and  
22 their good names are preserved. And I'm asking you that, after  
23 having this hanging over them for the past three and a half  
24 years, that you finally let them get back to their lives, their  
25 families, their reputations, and you free them from the burden

1 that these allegations put on them.

2                   As you heard before, I told you that if I kept my  
3 promises to you, I'd come back at the end and I'd ask you to  
4 find for Linode. As respectfully as I possibly can, I'm also  
5 asking you to honor the promise that you made when you took  
6 your oath as jurors, your promise to the Court and to the  
7 parties, that you would decide what the facts are here, apply  
8 the law that the Judge gave you, and to decide the case without  
9 bias, without passion, without prejudice, and based only on the  
10 evidence.

11                  So I'm asking you now, before I sit down, to go back  
12 into that room, to consider the actual evidence that was  
13 presented at this trial and the lack of evidence that you  
14 didn't see here, to follow the law as Judge Wolson gave you,  
15 and to render the only verdict possible that you follow the  
16 evidence and the law, and that is a verdict in favor of Linode.

17                  Mr. Carson is going to talk to you again for a bit  
18 now. As Judge Wolson told you, he is the plaintiff. He has  
19 the burden. He gets to go first and last. I would ask you  
20 during his argument to ask yourselves, as you're listening to  
21 what he says, is he pounding the facts, is he pounding the law,  
22 or is he pounding the table?

23                  I hope we get a chance to talk again after your  
24 deliberations are finished and your verdict is rendered, but if  
25 this is the last time that I have the privilege of speaking

1 with you, I want to thank you again for your time and your  
2 attention. My clients certainly thank you for the same, and we  
3 appreciate your work as jurors in this case.

4 And so on behalf of Linode, Mr. Spataro, Mr. Asaro,  
5 Mr. Palochko, and certainly myself and my colleagues here,  
6 thank you for all of your efforts, all of your attention, all  
7 of your work, and all of your consideration this week. Thanks.

8 THE COURT: Mr. Cavalier, thank you.

9 Mr. Carson, rebuttal?

10 MR. CARSON: I think I'm going to begin by just  
11 pointing out -- there are so many things, but I'm going to  
12 begin by pointing out the -- what Dan Spataro testified to.

13 "QUESTION: Do you remember now that it was him who  
14 called the meeting?

15 "ANSWER: Yes.

16 "I'm sorry?

17 "ANSWER: He called me in there. I mean, I would  
18 assume.

19 "So he asked for a meeting. He wanted the chief  
20 operating officer to be there, and he was upset and he  
21 mentioned his age at the meeting, correct?

22 "ANSWER: I think he briefly mentioned his age.  
23 Yeah."

24 What does it mean to briefly mention your age? Either  
25 he mentions it or he doesn't, right? He mentioned it. So you

1 just heard from John Cavalier that there isn't a single piece  
2 of evidence in this case to suggest he ever said one thing  
3 about his age. I think he said it like three times, he never  
4 one time uttered a single word about his age. But there's  
5 more.

6 They're saying that my client is a guy who, if he's  
7 upset, he's going to talk about it. We know that he was upset  
8 because Dan Spataro said he's upset. He said he's upset. He  
9 said that he's talking about age. The Pennsylvania Human  
10 Relations Commission document says that it's about age. But we  
11 only see one thread. One thread.

12 John asked you to think about the evidence that's here  
13 and not here. And he said that my client just didn't bring  
14 this evidence from his house. My client doesn't have access to  
15 Linode's company stuff. That's not at his house. So if it's  
16 not here, which side didn't bring it?

17 MR. CAVALIER: Objection.

18 THE COURT: Sustained.

19 MR. CARSON: John Spataro (sic) said that my client  
20 didn't show up because the information was at his house, ladies  
21 and gentlemen. He just left it at his house, apparently.

22 You heard in this case that there were Slack threads  
23 between Carl Williams and Peter Fu, Slack threads between Carl  
24 Williams and Dan Spataro, Slack threads between Carl Williams  
25 and Tom Asaro, Slack threads between Carl Williams, Dan Spataro

1 and Tom Asaro, a sales channel Slack thread, a network  
2 engineering thread. They didn't -- we don't even have the  
3 network engineering thread. A thread between Dan Spataro and  
4 Tom Asaro, a thread between Tom Asaro and Vince Palochko, a  
5 thread between Dan Spataro, Vince Palochko, and Tom Asaro, a  
6 thread between all these people and Chris Aker added to all of  
7 them. It wasn't me. It was defense counsel who asked you to  
8 consider the evidence that's here and the evidence that's not  
9 here.

10 You also -- there's -- I mean, like 90 percent of what  
11 you just heard from Mr. Cavalier is just misleading. Right?  
12 And here, I'll just give you a really good example.

13 So the law, the law says that you can rule in my  
14 client's favor based only on the fact that you don't believe  
15 what they're telling you as a reason for the termination, not  
16 that you don't believe what they're telling you about anything  
17 else. If you disbelieve -- here, I'm going to point it out to  
18 you.

19 So I would point you, when you are back there  
20 deliberating, to please consider Section B, the disparate  
21 treatment claims, and the section that says if you disbelieve  
22 Linode's stated reason for its conduct, in other words, the  
23 stated reason why they terminated him, you may, but need not,  
24 find that Mr. Williams has proved intentional discrimination.

25 The fact that you don't believe them alone is enough

1 for you to find for my client, period, end of story. That's  
2 not what Mr. Cavalier just told you, but that's what the law is  
3 going to tell you. That's what Judge Wolson told you, and  
4 that's what you'll read in the law.

5 So I think that -- I'm happy to pound the table if you  
6 want me to. I'm happy to pound the table if John wants me to.  
7 I'm also happy to pound the evidence, and I'm also happy to  
8 pound the law. So the evidence is going to show that -- John's  
9 words, John Cavalier's words, not mine, is going to show that  
10 this was a -- this is a company that used electronic  
11 communications for everything they did. Every part of their  
12 business was electronic communications. Right?

13 And they're saying that one of the reasons why they  
14 lied is because they thought that my client would -- some prior  
15 litigation and they thought he was going to sue them again?  
16 That's a reason -- that fact falls in our favor and my client's  
17 favor 100 percent. If you think that you're going to face a  
18 lawsuit and if you think that you're dealing with a guy --

19 By the way, there's not a single shred of evidence  
20 that any of that happened. We heard about an email from Chris  
21 Aker -- where is the e-mail? We heard about this fear of  
22 litigation but --

23 But if you think that you're going to get sued by  
24 someone, then what you do is you create a false trail of the  
25 evidence to point in the direction that you're breaking the law

1 and you don't create one single record to suggest that what  
2 you're doing is really what you're doing? You don't send an  
3 email out or a text thread and say, hey, we told him this  
4 reason but we really meant this reason, and we just want to  
5 make sure that we're on the record saying it because, you know,  
6 we're worried we might get sued in the future. That didn't  
7 happen.

8 What happened was -- well, we know what happened. It  
9 was two years and three months. Right? We saw evidence that  
10 the statements that came through the lawyers had this false  
11 reason in it. The answers to interrogatories were verified  
12 under penalty of perjury. All right? That is one of the  
13 reasons why there's a punitive damage claim in this case. That  
14 is one of the reasons why we're going to ask you to apply  
15 liquidated damages to the age claim.

16 The law doesn't tolerate perjury. You can't perjure  
17 yourself for two and a half years and then decide you're going  
18 to change the story and ask for a ruling in your favor because  
19 you say the word pedophile. That's not how it works. You got  
20 to look at the evidence. Right? And when you look at the  
21 evidence, ask yourself if what they're telling you made sense.  
22 It doesn't. It doesn't make any sense. There's some other  
23 misleading things.

24 So remember at the beginning of this case you were  
25 told that there was going to be all these people who contacted

1 Vince Palochko and saying it's him or me? Then Vince Palochko  
2 got on the stand and said that never happened. So you didn't  
3 hear anything from that in his closing statement. That's one  
4 of those parts of the lie that we're going to pretend we never  
5 told that lie. Because it didn't happen.

6 Mr. Cavalier testifies that there's a clear policy for  
7 discrimination. Nobody there thought it was a clear policy.

8 This is what Dan Spataro said about the policy:

9 "QUESTION: So if someone mention's age, though,  
10 aren't you supposed to let Vince Palochko know?

11 "ANSWER: I don't know. I have no idea."

12 That's the director. No idea what to do with a  
13 discrimination complaint. The word encouraged is not --  
14 policies that prevent discrimination in the workplace have to  
15 be mandatory, mandatory reporting. And Mr. Cavalier tried to  
16 like, play games with words, If something happens to you, you  
17 don't want to force people to report it. That's not what the  
18 policy says that we're dealing with. What the policy says, and  
19 please take a look at it, it says if you see a discrimination,  
20 do what you want with it. We encourage you to report it, but  
21 you don't have to. And Vince Palochko confirmed that's what it  
22 meant, and it never changed. Year after year after year the  
23 employee handbook changed, but no one cared to update the  
24 policy because no one cared about the policy.

25 It didn't have a retaliation section. It looked like

1 it was copied and pasted. I mean, the guy who wrote it had  
2 never written a policy before. So honestly, it's kind of  
3 understandable why it was deficient. I mean, Tom Asaro hired a  
4 guy with no HR experience and told him, hey, we want you to run  
5 our HR department for this fast-growing multimillion-dollar  
6 company.

7 THE COURT: A minute and a half, Mr. Carson.

8 MR. CARSON: How much?

9 THE COURT: Minute and a half.

10 MR. CARSON: Thank you.

11 John testified that my client said that they were like  
12 a married couple. I just searched the entire transcript. The  
13 word married has not been mentioned in this case once. That is  
14 just a false statement. That's another false statement said to  
15 you.

16 We heard about an ongoing FBI investigation. That  
17 never happened either. Everyone confirmed the only FBI  
18 investigation was about John Musbach in 2016. So that was just  
19 more fear. You know, more fear, more smoke and mirrors, more  
20 lies. I mean, they can't win this case without lying to you,  
21 and they can't win this case unless you accept the lies and  
22 disregard all the evidence.

23 There's nothing -- there is nothing remotely  
24 contradictory about my client saying to Vince Palochko and to  
25 Chris Aker that he was happy about them or appreciated their

1 policy toward LGBT. There had just been an LGBT event at the  
2 Philadelphia headquarters, and he was saying thank you for  
3 that. And that has -- that could -- that email can live in the  
4 world where everything my client said is true and it doesn't in  
5 one way suggest or contradict anything in this case. More  
6 misdirection.

7                   Owen Conway didn't confirm anything. Oh, yeah. Owen  
8 Conway didn't work with Dan Spataro and Carl Williams. The one  
9 guy they can get to testify that he didn't hear anything is the  
10 one guy who spent a couple days with them and then went to  
11 another office.

12                  THE COURT: That's time, Mr. Carson.

13                  MR. CARSON: Thank you.

14                  THE COURT: Okay. So you've heard the closing  
15 arguments. When you retire to the jury room to deliberate, you  
16 may take with you these instructions, your notes, and the  
17 exhibits that I've admitted into evidence. Note that certain  
18 numbered exhibits may appear to be missing; however, this is  
19 intentional and you should not draw any inferences from it.

20                  You should select one member of the jury as your  
21 foreperson. That person will preside over the deliberations  
22 and speak for you here in open court.

23                  You have two main duties as jurors. The first one is  
24 to decide what the facts are from the evidence that you saw and  
25 heard here in court. Deciding what the facts are is your job,

1 not mine, and nothing that I've said or done during this trial  
2 was meant to influence your decision about the facts in any  
3 way.

4 Your second duty is to take the law that I give you,  
5 apply it to the facts, and decide if, under the appropriate  
6 burden of proof, the parties have established their claims. It  
7 is my job to instruct you about the law, and you're bound by  
8 the oath that you took at the beginning of the trial to follow  
9 the instructions that I gave you, even if you personally  
10 disagree with them.

11 This includes the instructions that I gave you before  
12 and during the trial and these instructions. All the  
13 instructions are important and you should consider them  
14 together as a whole. Perform these duties fairly. Do not let  
15 any bias, sympathy, or prejudice that you may feel toward one  
16 side or the other influence your decision in any way.

17 As jurors, you have a duty to consult with each other  
18 and to deliberate with the intention of reaching a verdict.  
19 Each of you must decide the case for yourself only after a full  
20 and impartial consideration of all of the evidence with your  
21 fellow jurors. Listen to each other carefully.

22 In the course of your deliberations, you should feel  
23 free to re-examine your own views and to change your opinion  
24 based on the evidence, but you should not give up your honest  
25 convictions about the evidence just because of the opinions of

1 your fellow jurors, nor should you change your mind just for  
2 the purpose of obtaining enough votes for a verdict.

3               When you start deliberating, do not talk to any of the  
4 court officers or to me or to anyone but each other about the  
5 case. During your deliberations, you must not communicate with  
6 or provide any information to anyone by any means about the  
7 case. You may not use any electronic device or media such as a  
8 cell phone, smart phone, tablet, or computer of any kind; the  
9 internet, any internet service, or any text or messaging  
10 service like Twitter, or any internet chat room, blog, website  
11 or social networking service such as Facebook, LinkedIn,  
12 Instagram, TikTok, Snapchat, GroupMe or YouTube to communicate  
13 to anyone any information about this case or to conduct any  
14 research about this case until I accept your verdict.

15               You may not use these electronic means to investigate  
16 or communicate about the case because it is important that you  
17 decide this case based solely on the evidence presented in this  
18 courtroom. Information on the internet or available through  
19 social media might be wrong, incomplete, or inaccurate.  
20 Information that you might see on the internet or on social  
21 media has not been admitted into evidence and the parties have  
22 not had a chance to discuss it with you. You should not seek  
23 or obtain such information and it must not influence your  
24 decision in this case.

25               If you have any questions or messages for me, you must

1 write them down on a piece of paper, have the foreperson sign  
2 them and give them to Ms. Abed, Ms. Scott, or whichever other  
3 court officer is present. That person will give them to me,  
4 and I will respond as soon as I can. I may have to talk to the  
5 lawyers about what you've asked, so it may take some time to  
6 get back to you.

7 One more thing about messages. Never write down or  
8 tell anyone how you stand on your votes. For example, do not  
9 write down or tell anyone that a certain number has voted one  
10 way or another. Your vote should stay secret until you are  
11 finished. Your verdict must represent the considered judgment  
12 of each juror. In order for you as a jury to return a verdict,  
13 each juror must agree to the verdict. Your verdict must be  
14 unanimous.

15 A form of verdict has been prepared for you. It has a  
16 series of questions for you to answer. You will take this form  
17 to the jury room, and when you have reached agreement as to  
18 your verdict, you will fill it in and have your foreperson date  
19 and sign the form. You will then return to the courtroom and  
20 your foreperson will give your verdict. Unless I direct you  
21 otherwise, do not reveal your answers until you are discharged.

22 After you have reached a verdict, you are not required  
23 to talk with anyone about the case unless I order you to do so.  
24 Once again, I want to remind you that nothing about my  
25 instructions and nothing about the form of verdict is intended

1 to suggest or convey in any way or manner what I think your  
2 verdict should be. It is your sole and exclusive duty and  
3 responsibility to determine the verdict.

4               Okay. Those are my instructions for you. As I said,  
5 we'll send you a copy. You're going to have to give us a few  
6 minutes to collate it and get it back to you. We'll do the  
7 same thing with the verdict sheet that you'll fill out.

8               When you have the verdict sheet, you'll see it has  
9 questions and instructions after each question about how to  
10 proceed. Same thing goes, if you have questions about it, you  
11 can write them down and let me know. I think it's easy enough  
12 to follow. But I'm reading it and I don't know what you think  
13 when you read it.

14               And then the final thing is the exhibits. Again,  
15 you'll get that binder. I think it's just about ready, if it's  
16 not already. So it should be back to you shortly as well. I  
17 think you'll have everything in the next ten minutes or so.  
18 You can start your discussions in the meantime. You don't have  
19 to wait for that, but you are free to.

20               So I'm going to send you back now, and Ms. Scott will  
21 take you. Thank you.

22               THE COURTROOM DEPUTY: All rise.

23               (Jury exits the courtroom at 10:49 a.m.)

24               THE COURT: Okay. You can all be seated. I gather --  
25 I think I saw a nod that the exhibits are ready to go back to

1 them? So we'll take them back when we send them the  
2 instructions and the verdict sheet.

3 MR. CARSON: I haven't seen them yet, though.

4 THE COURT: You'll have some time to do that while we  
5 collate them.

6 And then make sure that you've given a cell phone  
7 number to Ms. Scott or to someone who can get in touch with  
8 you. I mean, my preference would be you be nearby, not  
9 retreating back to your offices or anything like that. My gut  
10 is that we'll get a verdict today, but I don't know that for  
11 certain.

12 And then the other issue that was still on the table  
13 was this question about the Akamai financials for use, if there  
14 is a punitives hearing. I think I had tabled that question, I  
15 think I raised it again yesterday. I would like to get an  
16 answer to it before we scatter so that if there is a verdict,  
17 we're ready to go.

18 So am I correct that there's still an objection to the  
19 use of those financials, Mr. Cavalier?

20 MR. CAVALIER: To the Akamai financials, yes.

21 THE COURT: Okay. And have you all conferred about  
22 it? Have you reached any kind of agreement or resolution or do  
23 I just need to hear argument on it?

24 MR. CARSON: We haven't really conferred on it, but  
25 there might be some agreement from me.

1                   MR. CAVALIER: Certainly Linode's financials at the  
2 relevant time are relevant. We can certainly agree to that.

3                   Akamai's financials are a completely different ball  
4 game in our view. We think that -- first of all, that they are  
5 irrelevant to the conduct at issue here. It's a later  
6 acquisition.

7                   Secondly, we think it's prejudicial given the  
8 jury's --

9                   THE COURT: Well, let me, before you -- I mean, I know  
10 you are going down this road, but there is some case law I  
11 believe that deals with the -- so first of all, as I understand  
12 it -- I understand it's later in time, but generally you're  
13 looking at the financials currently because the purpose is the  
14 current punishment, not the past punishment.

15                  MR. CAVALIER: Right.

16                  THE COURT: I think there's some case law that deals  
17 with this, that deals with the admissibility of the successor  
18 entity's financials in the context of punitive damages.

19                  I said I think there's case law. I don't know exactly  
20 what it says and I don't know if there's a factual predicate  
21 here that would get me to admissibility, nor am I entirely  
22 clear on whose burden that is right now.

23                  So I flagged this issue a couple times. What do you  
24 all know or are there particular cases you want to point me to?  
25 Where are we on this?

1                   MR. CAVALIER: I can certainly take a look, but  
2 certain -- I mean, we, frankly, haven't had a chance to look  
3 deeply at this issue because there's been no presentation  
4 whatsoever that would even tend to establish the factual  
5 predicate and successor liability. I'd be happy to take a look  
6 at it and give you, Judge, our position on the law on that  
7 issue. I don't think it would take me very long.

8                   But ultimately, it's the plaintiff's burden, if they  
9 want successor liability against Akamai, to at least put forth  
10 facts that could even potentially serve to suffice to carry  
11 that burden, and there's just nothing in the record at the  
12 present time.

13                  THE COURT: Well, I want to be clear. It's not -- the  
14 burden is different than it is in a pure successor liability  
15 claim. Right? So it's not - I know this much. It's not the  
16 same as there was a fraudulent conveyance, I'm pursuing  
17 successor liability, which is a fairly high burden and you have  
18 to show a series of facts. That's not what's here, what's at  
19 issue. I don't know, though, exactly where the standard is, is  
20 the question for this, and it's the issue I need to hear is  
21 both what the standard is, and then, you know, what's been  
22 shown. I mean, certainly, I know there's been an acquisition,  
23 for example.

24                  MR. CAVALIER: Right.

25                  MR. CARSON: We know that all the Linode employees are

1 Akamai employees.

2 THE COURT: Right. And what I don't know, and I don't  
3 know it's legally significant, for example, is whether this was  
4 an asset purchase or a stock purchase.

5 MR. CAVALIER: Exactly.

6 THE COURT: I don't know if that's legally  
7 significant. I also don't know whose burden it is to put in  
8 front of me to -- whether it's presumptively admissible or not.  
9 I don't know any of these answers.

10 So these are the things that, I guess, I need  
11 resolved. If, I mean, I will leave you all. I'm not going to  
12 come back on the bench for a specific proceeding, but I will  
13 say that, you know, the next time I'm back out here, whether  
14 that is for a jury question or whether it is because I get word  
15 that there's a verdict -- if it's a question, I might bring the  
16 jury in and deal with the question and then try to get the  
17 answer. If it's a verdict, I'm going to want to answer this  
18 before the jury comes in. So that when the jury is seated, we  
19 can just go.

20 MR. CAVALIER: We'll have that for you.

21 THE COURT: Okay. All right. So we'll get the  
22 instructions ready and bring them out. And why don't you all  
23 confer, make sure the exhibits are okay so we can take the  
24 exhibits back with the verdict sheet and the instructions. And  
25 then we'll make sure you've got -- given someone a cell phone

1 numbers for each of you if you are not going to be in the  
2 courtroom. Okay? And I don't have anything in the courtroom  
3 this afternoon. You're welcome to stay here and work. Okay?  
4 Thanks.

5 (Recess at 10:55 a.m.)

6 THE COURTROOM DEPUTY: All rise.

7 (In open court at 12:56 p.m.)

8 THE COURT: All right. Have a seat everybody. All  
9 right, so I have word that we have a verdict from the jury. So  
10 I can, I think, bring them out. I know that we had talked  
11 about the punitives question. I don't know if I'm going to  
12 answer that now or if you want to just hear what the jury has  
13 to say first?

14 MR. CARSON: Can we hear what the jury has to say  
15 first?

16 MR. CAVALIER: Yes, I agree.

17 THE COURT: Okay. Let's bring them out.

18 THE COURTROOM DEPUTY: All rise for the jury.

19 (Jury enters the courtroom at 12:56 p.m.)

20 THE COURT: All right. Everybody can have a seat.  
21 All right, it's my understanding you've reached a  
22 verdict; is that right?

23 THE FOREPERSON: Yes.

24 THE COURT: Okay. So I'm going to ask Ms. Scott to  
25 take your verdict.

1                   THE COURTROOM DEPUTY: Will the foreperson of the jury  
2 please rise.

3                   Have the members of the jury agreed upon a verdict by  
4 answering the interrogatories submitted to you by the Court?

5                   THE FOREPERSON: Yes.

6                   THE COURT: Okay. Thank you.

7                   THE COURTROOM DEPUTY: Okay. What is your verdict as  
8 to question No. 1, which reads, "Do you find that plaintiff  
9 Carl Williams proved by a preponderance of the evidence that  
10 his sexual orientation was a determinative factor in Linode's  
11 decision to either, one, pay Mr. Williams less than other  
12 employees in similar positions; two, terminate Mr. Williams;  
13 or, three, deny Mr. Williams a profit sharing bonus," yes or  
14 no?

15                  THE FOREPERSON: No.

16                  THE COURTROOM DEPUTY: Question 2, "Do you find that  
17 plaintiff Carl Williams proved by a preponderance of the  
18 evidence that his complaint of discrimination based on sexual  
19 orientation was a determinative factor in Linode's decision to  
20 either, one, pay Mr. Williams less than other employees in  
21 similar positions; two, terminate Mr. Williams; or, three, deny  
22 Mr. Williams a profit sharing bonus," yes or no?

23                  THE FOREPERSON: No.

24                  THE COURTROOM DEPUTY: 3, "Do you find that plaintiff  
25 Carl Williams proved by a preponderance of the evidence that he

1 was subjected to a hostile work environment based on his sexual  
2 orientation," yes or no?

3 THE FOREPERSON: No.

4 THE COURTROOM DEPUTY: Phase 2, Age Discrimination and  
5 Employment Act, question 6, "Do you find that plaintiff Carl  
6 Williams proved by a preponderance of the evidence that his age  
7 was a determinative factor in Linode's decision to either, one,  
8 pay Mr. Williams less than other employees in similar  
9 positions; two, terminate Mr. Williams; or, three, deny  
10 Mr. Williams a profit sharing bonus," yes or no?

11 THE FOREPERSON: No.

12 THE COURTROOM DEPUTY: Question 7, "Do you find that  
13 plaintiff Carl Williams proved by a preponderance of the  
14 evidence that his complaint of discrimination based on age was  
15 a determinative factor in Linode's decision to either, one, pay  
16 Mr. Williams less than other employees in similar positions;  
17 two, terminate Mr. Williams; or, three, deny Mr. Williams a  
18 profit sharing bonus," yes or no?

19 THE FOREPERSON: No.

20 THE COURTROOM DEPUTY: No. 8, "Do you find that  
21 plaintiff Carl Williams proved by a preponderance of the  
22 evidence that he was subjected to a hostile work environment  
23 based on his age."

24 THE FOREPERSON: No.

25 THE COURT: Okay.

1                   Thank you, Ms. Scott.

2                   Mr. Carson, do you want me to poll the jury?

3                   MR. CARSON: Yes, Your Honor.

4                   THE COURT: Okay. Ms. Scott, if you would.

5                   THE COURTROOM DEPUTY: Juror No. 1, please rise.

6                   Do you agree with the verdict as rendered by your  
7 foreperson?

8                   JUROR NO. 1: I do.

9                   THE COURTROOM DEPUTY: Juror No. 3, please rise -- you  
10 can have a seat, sir --

11                  Do you agree with the verdict as rendered by your  
12 foreperson?

13                  JUROR NO. 3: I do.

14                  THE COURTROOM DEPUTY: Juror No. 4, please rise.

15                  Do you agree with the verdict as rendered by your  
16 foreperson?

17                  JUROR NO. 4: I do.

18                  THE COURTROOM DEPUTY: Juror No. 5, please rise.

19                  Do you agree with the verdict as rendered by your  
20 foreperson?

21                  JUROR NO. 5: I do.

22                  THE COURTROOM DEPUTY: Juror No. 6, please rise.

23                  Do you agree with the verdict as rendered by your  
24 fellow jurors?

25                  JUROR NO. 6: I do.

1                   THE COURTROOM DEPUTY:  Juror No. 7, please rise.

2                   Do you agree with the verdict as rendered by your  
3 foreperson?

4                   JUROR NO. 7:  I do.

5                   THE COURTROOM DEPUTY:  I'm sorry.  I went out of order  
6 there.

7                   And Juror No. 7 -- or 8, please rise.

8                   Do you agree with the verdict as rendered by your  
9 foreperson?

10                  JUROR NO. 8:  I do.

11                  THE COURTROOM DEPUTY:  Thank you.

12                  THE COURT:  Okay.  Any reason from counsels'  
13 perspective not to record the verdict?

14                  MR. CAVALIER:  None from the defense.

15                  MR. CARSON:  No.

16                  THE COURT:  Okay.  Ms. Scott, if you would.

17                  THE COURTROOM DEPUTY:  Members of the jury, hearken  
18 unto your verdict as the Court has recorded it in this issue  
19 joins Civil Action 22-1618 between Carl Williams and Linode  
20 Limited Liability Company, et al., by answering the  
21 interrogatories submitted to you by the Court, you find in  
22 favor of the defendant and so say you all.

23                  THE JURY:  We do.

24                  THE COURTROOM DEPUTY:  Thank you.

25                  THE COURT:  Thank you, Ms. Scott.

1                   All right. So, Members of the jury, I want to thank  
2 you. Obviously, it was a long stretch of time, even beyond  
3 what my estimates were when we conducted voir dire.

4                   In paying attention, I've been watching, you were all  
5 very attentive and engaged, and I really appreciate that. I  
6 appreciate your willingness to serve.

7                   Really and truly, like, our system does not work  
8 without people like you being willing to come and invest your  
9 time and serve this role.

10                  So I'm going to say two last things. One -- aside  
11 from thank you. One is, as you go in the back, I'm going to  
12 ask you to -- I know you're anxious to go home -- hang on for a  
13 little bit. I'd like to come back and thank you personally,  
14 okay? It's not a mandate. If you want to go or have a reason  
15 to go, go. But it won't be long and I'd appreciate it.

16                  Number two, I've been telling you throughout this  
17 trial not to talk about the case. You are released from that  
18 obligation. I'm actually going to encourage you to go talk  
19 about what you've seen here. Not so much the substance of the  
20 case. You're welcome to talk about that with other people if  
21 you want to.

22                  I happen to think that -- there's only three branches  
23 of government, and it's the one that's probably most clouded in  
24 mystery for most people. They just don't really know what  
25 happens in a courtroom. We see what happens on TV. We see

1 what happens in the movies. It's not exactly what happens in  
2 real life here. And I think there's value in people knowing  
3 what's happening in our courts and how things proceed.

4 So to the extent you are talking to people about your  
5 experience or they're asking, I would encourage you to tell  
6 them about what it's like and what happens in a trial and how  
7 things really go because I think that's a valuable part of our  
8 civic education.

9 So with that, I'm going to excuse you. Thanks again  
10 from the Court. I really do appreciate it. I know the parties  
11 do as well. And hopefully I'll see each of you in just a few  
12 moments in the back. Okay? Thank you.

13 THE COURTROOM DEPUTY: All rise.

14 (Jury exits the courtroom at 1:04 p.m.)

15 THE COURT: You can all be seated. Just as a matter  
16 of process, my norm is to give the jurors the option of  
17 sticking around for a little bit and chatting with you. The  
18 way I would do that, generally, is have them come out here and  
19 just kind of talk to you in the -- from the jury box. Someone  
20 from, you know, either Ms. Scott or someone from my staff will  
21 sort of stick around and just keep an eye on that. So I don't  
22 know how long that will be. I don't know -- it's an option on  
23 their part, obviously. They may be anxious to get home, but  
24 it's one o'clock, so it may not be a giant rush either.

25 So I'm going to talk to them for a little bit, and so

1 if you want to talk to them, just stick around for that. Okay?

2 MR. CAVALIER: Thank you, Your Honor.

3 THE COURT: Anything else we need to do now,

4 Mr. Carson, from your perspective?

5 MR. CARSON: No, Your Honor, thank you.

6 THE COURT: Mr. Cavalier, anything else?

7 MR. CAVALIER: Only to express our gratitude to the  
8 Court and its staff for their hospitality.

9 THE COURT: Okay. Well, I appreciate everybody's  
10 work. It was an important case. It was well tried. The  
11 downside to trials is there's always a winner and a loser, and  
12 so someone walks out a little unhappy.

13 But I appreciate the efforts everyone put in, and, as  
14 I said, I'll see what the jurors do as I'm chatting with you  
15 momentarily.

16 Thanks, everybody. Have a good afternoon.

17 MR. CARSON: Thank you, Your Honor.

18 MR. CAVALIER: Thank you, Your Honor.

19 (Matter adjourned at 1:05 p.m.)

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2 I certify that the foregoing is a correct transcript from the  
3 record of proceedings in the above-entitled matter.

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5 /S/ Maureen McHugh, RPR  
6 Official Court Reporter

7 January 31, 2024  
8 Date

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